NATURE, EXTENT, AND PROLIFERATION OF FEDERAL LAW ENFORCEMENT (Part 2.—State and Local Law Enforcement Perspectives)

Y 4. J 89/1: 104/48/PT. 2

Nature, Extent, and Proliferation o... NG

BEFORE THE

SUBCOMMITTEE ON CRIME

OF THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

MAY 23, 1996

Serial No. 48

DEPOSITORY

MAR 19 1997

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE

36-776 CC WASHINGTON : 1997

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-054002-X

NATURE, EXTENT, AND PROLIFERATION OF FEDERAL LAW ENFORCEMENT (Part 2.—State and Local Law Enforcement Perspectives)

Y 4. J 89/1: 104/48/PT. 2

Nature, Extent, and Proliferation o... NG

BEFORE THE

SUBCOMMITTEE ON CRIME

OF THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

MAY 23, 1996

Serial No. 48

DEPOSITORY

MAR 19 1997

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE

36-776 CC WASHINGTON : 1997

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-054002-X

COMMITTEE ON THE JUDICIARY

HENRY J. HYDE, Illinois, *Chairman*

CARLOS J. MOORHEAD, California
F. JAMES SENSENBRENNER, JR., Wisconsin
BILL McCOLLUM, Florida
GEORGE W. GEKAS, Pennsylvania
HOWARD COBLE, North Carolina
LAMAR SMITH, Texas
STEVEN SCHIFF, New Mexico
ELTON GALLEGLY, California
CHARLES T. CANADY, Florida
BOB INGLIS, South Carolina
BOB GOODLATTE, Virginia
STEPHEN E. BUYER, Indiana
MARTIN R. HOKE, Ohio
SONNY BONO, California
FRED HEINEMAN, North Carolina
ED BRYANT, Tennessee
STEVE CHABOT, Ohio
MICHAEL PATRICK FLANAGAN, Illinois
BOB BARR, Georgia

JOHN CONYERS, JR., Michigan
PATRICIA SCHROEDER, Colorado
BARNEY FRANK, Massachusetts
CHARLES E. SCHUMER, New York
HOWARD L. BERMAN, California
RICK BOUCHER, Virginia
JOHN BRYANT, Texas
JACK REED, Rhode Island
JERROLD NADLER, New York
ROBERT C. SCOTT, Virginia
MELVIN L. WATT, North Carolina
XAVIER BECERRA, California
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
MAXINE WATERS, California

ALAN F. COFFEY, JR., *General Counsel/Staff Director*
JULIAN EPSTEIN, *Minority Staff Director*

SUBCOMMITTEE ON CRIME

BILL McCOLLUM, Florida, *Chairman*

STEVEN SCHIFF, New Mexico
STEPHEN E. BUYER, Indiana
HOWARD COBLE, North Carolina
FRED HEINEMAN, North Carolina
ED BRYANT, Tennessee
STEVE CHABOT, Ohio
BOB BARR, Georgia

CHARLES E. SCHUMER, New York
ROBERT C. SCOTT, Virginia
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
MELVIN L. WATT, North Carolina

PAUL J. MCNULTY, *Chief Counsel*
GLENN R. SCHMITT, *Counsel*
DANIEL J. BRYANT, *Assistant Counsel*
NICOLE F. ROBILOTTO, *Assistant Counsel*
TOM DIAZ, *Minority Counsel*

CONTENTS

HEARING DATE

Page

May 23, 1996 1

OPENING STATEMENT

McCollum, Hon. Bill, a Representative in Congress from the State of Florida, and chairman, Subcommittee on Crime 1

WITNESSES

Brady, M. Jane, attorney general, State of Delaware, on behalf of the National Association of Attorneys General 3
Gainer, Terrance W., director, Illinois State Police, on behalf of the International Association of Chiefs of Police 49
Gallegos, Gilbert G., national president, Fraternal Order of Police 59
Hughes, Johnny L., congressional affairs chairman, National Troopers Coalition 58
Justice, John R., solicitor, Sixth Judicial Circuit, Chester, SC, and vice president, National District Attorneys Association 9
Meeks, Charles B., executive director, National Sheriffs' Association 67
O'Malley, Jack, State's attorney, Chicago, Cook County, IL, and past vice president, National District Attorneys Association 13

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

Brady, M. Jane, attorney general, State of Delaware, on behalf of the National Association of Attorneys General: Prepared statement 6
Gainer, Terrance W., director, Illinois State Police, on behalf of the International Association of Chiefs of Police: Prepared statement 53
Gallegos, Gilbert G., national president, Fraternal Order of Police: Prepared statement 63
Hughes, Johnny L., congressional affairs chairman, National Troopers Coalition: Prepared statement 59
Justice, John R., solicitor, Sixth Judicial Circuit, Chester, SC, and vice president, National District Attorneys Association: Prepared statement 11
Jackson Lee, Hon. Sheila, a Representative in Congress from the State of Texas Prepared statement 44
Meeks, Charles B., executive director, National Sheriffs' Association: Prepared statement 69
O'Malley, Jack, State's attorney, Chicago, Cook County, IL, and past vice president, National District Attorneys Association: Prepared statement 16
Schumer, Hon. Charles E., a Representative in Congress from the State of New York: Prepared statement 35

NATURE, EXTENT, AND PROLIFERATION OF FEDERAL LAW ENFORCEMENT

(Part 2.—State and Local Law Enforcement Perspectives)

THURSDAY, MAY 23, 1996

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:43 a.m., in room 2237, Rayburn House Office Building, Hon. Bill McCollum (chairman of the subcommittee) presiding.

Present: Representatives Bill McCollum, Stephen E. Buyer, Howard Coble, Fred Heineman, Ed Bryant of Tennessee, Steve Chabot, Bob Barr, Charles E. Schumer, Robert C. Scott, Zoe Lofgren, Sheila Jackson Lee, and Melvin L. Watt.

Also present: Representative John Conyers, Jr.

Staff present: Paul J. McNulty, chief counsel; Glenn R. Schmitt, counsel; Nicole F. Robilotto, assistant counsel; and Tom Diaz, minority counsel.

OPENING STATEMENT OF CHAIRMAN McCOLLUM

Mr. MCCOLLUM. Good morning. The Subcommittee on Crime will come to order.

This morning the subcommittee will continue our hearings on the nature, extent, and proliferation of Federal law enforcement. This is the second of at least three hearings this year on this important topic. Our focus today is on the views of State and local law enforcement officials.

We all know that Federal law enforcement as a whole has changed enormously over the past two decades. The major agencies—FBI, DEA, ATF, Customs, Marshals, Secret Service, and INS—have experienced staggering growth in their budgets and a significant expansion of their collective investigative jurisdiction. Now Federal agents go after guns, gangs, drugs, and even deadbeat dads.

What has all of this change meant for State and local law enforcement? Certainly the need for cooperation and coordination is more important than ever. Overlapping investigations can endanger law enforcement officers and jeopardize criminal convictions. But an even greater concern may exist if Federal law enforcement agencies fail to appreciate the strengths and advantages of State

and local law enforcement in relation to particular types of criminal cases.

To what extent have Federal law enforcement efforts failed to take full advantage of the unique abilities of State and local law enforcement? For example, during the subcommittee's hearings on the Waco matter, several witnesses testified that the Texas Rangers could have been better utilized by the FBI in resolving the standoff. We'll be interested in exploring this issue today.

Let me also point out that the witnesses who have agreed to be here today are a tiny fraction of all the men and women who make up State and local law enforcement. I'm sure that opinions within their ranks will vary greatly. Time simply doesn't allow for every view to be heard. Therefore, I hope that the representatives here today will try their best to speak for their colleagues. Your personal opinions are important, but you've been invited here especially because you're the leaders within your respective organizations.

We really do want to hear about it, and we also want to hear about where maybe we get involved in areas we don't have any business being involved with from the Federal end. I'm quite confident that many times local law enforcement can do the job and should be the one doing the job.

With that in mind, Mr. Scott, do you have any opening remarks?

Mr. SCOTT. No, Mr. Chairman. I look forward to the comments of the witnesses. I understand this effort is being handled on a bipartisan basis. I look forward to the comments of the witnesses.

Mr. MCCOLLUM. Thank you.

Mr. SCOTT. And I would like the record to remain open. I think the ranking member——

Mr. MCCOLLUM. Certainly.

Mr. SCOTT [continuing]. Mr. Schumer, has a statement.

Mr. MCCOLLUM. Any statements would certainly be admitted to the record.

Mr. Heineman, do you have any? Mr. Bryant. If not——

Mr. BRYANT of Tennessee. I don't.

Mr. MCCOLLUM. All right, thank you.

I want to welcome our first panel today. Attorney General Jane Brady of Delaware is with us. It's good to see you again, Attorney General.

Ms. BRADY. Nice to see you, sir.

Mr. MCCOLLUM. Prior to becoming attorney general in 1995, Ms. Brady served for 12 years as deputy attorney general and was the chief prosecutor in Sussex County from 1987 to 1990. She is a recognized leader on the issue of victims' rights and was a member of Delaware's Victims' Rights Task Force which drafted the State's victims' bill of rights. She received her undergraduate degree from the University of Delaware and her law degree from Villanova Law School.

Joining her on the first panel is John R. Justice, solicitor of Chester County in Great Falls, SC, a position to which he was first elected in 1978. His staff of nine persons handled more than 3,200 criminal warrants. Prior to assuming the solicitor's position, he was a sole practitioner in Great Falls and served one term in South Carolina's House of Representatives. He received his undergraduate and law degrees from the University of South Carolina. Mr.

Justice served 26 years in the Army National Guard and is presently vice president of the National District Attorneys Association, on whose behalf he appears today.

Jack O'Malley was elected Cook County, IL, State attorney in 1990. In that position, he leads and manages a staff of nearly 900 assistant State attorneys, 160 investigators, and 700 administrative staff members. That's a huge office you've got there. His office is the second largest prosecutor's office in the Nation.

Prior to becoming an attorney, he served as a Chicago police officer, receiving more than 50 honorable mentions for making dangerous arrests. While working full time, he earned his undergraduate degree in criminal justice from Loyola University and his law degree from the University of Chicago Law School.

Following graduation, he became an assistant city corporation counsel, and in 1993 he became an associate with the Chicago firm of Winston & Straun. He has served as a member of the Presidential Commission on Model State Drug Laws, president of the Illinois State Attorneys Association, and is currently vice president and member of the board of the National District Attorneys Association, on whose behalf he appears today. Mr. O'Malley serves as the NDAA liaison to the Department of Justice.

Welcome, Mr. O'Malley.

Mr. O'MALLEY. Thank you.

Mr. MCCOLLUM. Well, I think we should start with you, Attorney General Brady.

Your full statements, I would say to all of the panel, will be admitted into the record, without objection, and you may feel free to summarize or to give us whatever portion you desire.

STATEMENT OF M. JANE BRADY, ATTORNEY GENERAL, STATE OF DELAWARE, ON BEHALF OF THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Ms. BRADY. Thank you. Thank you very much for the opportunity to address this body. On behalf of the National Association of Attorneys General and our president, Tom Udall of New Mexico, we appreciate the invitation.

The office of the attorney general of Delaware is nearly unique in the country in that it has original criminal prosecution responsibility. We have no county-elected district attorneys, and the attorney general's office serves as both the DA and the attorney general in our State. As a State, we are small, manageable, and very proud of the fine job that we do.

Our State has a full-service State police department and approximately 40 local departments. The office of the attorney general prosecutes the arrests made by these departments and works closely with them.

I believe that Delaware provides a model for Federal, State, and local cooperation. I recall one case I handled, which I think will fairly reflect the relationship between the agencies in my State. The case involved a wiretap of an illegal gambling operation. We secured approval to establish the wire prior to, and culminating on, Super Bowl Sunday. During the time the wiretap was up and running, there were equipment and intense personnel requirements. Members of the FBI and DEA sat beside the State and city police

officers and staffed the effort. They provided some of the equipment, the purchase of which would not have been within the budget of the small agencies involved. And at the conclusion of the wire, we executed seven simultaneous search warrants to prevent the destruction of evidence and warning between the operation's locations. Their assistance was needed, and they were again available.

After arrest, it was determined that, as to several of the principals, one of whom was named in the Pennsylvania Crime Commission's report as a member of organized crime, the penalties available to the State were not as severe as those available in the Federal jurisdiction and we sent the prosecution of those individuals to the U.S. Attorney's Office. At no point in time was there any concern beyond getting the best job done that we could together.

Another more recent case illustrates the continuing cooperative relationship between Federal and State agencies in Delaware. Tragically, a man was murdered and his gun shop was robbed in Wilmington. The Delaware State police had jurisdiction over the case. While the police followed some very scarce leads to try and learn the identity of the perpetrators, the ATF immediately came to their assistance, getting information from the federally-required forms with regard to identifying the type and number of guns that had been stolen. When the perpetrators were found, the guns, which could, as a result of the assistance of ATF, be identified as proceeds of the robbery, were recovered.

The assistance of the ATF in this case on an immediate basis was critical because the perpetrators were headed out of State, and a delay of several more hours, as short a period of time as that, would have made a difference. These guns would have been in the hands of criminals in New York City.

A joint press conference was held acknowledging the crucial role that each agency had in the investigation. The case is pending trial, and ATF continues to assist, offering testing and analysis of the evidence seized in that case.

We rely upon the Federal Government's role to provide training to State and local law enforcement, to keep them up to date on the latest evidence-collection techniques and detection capabilities. Officers from our State and from our State fire marshal's office attend that training. I personally attended the ATF training, "Arson for Prosecutors" course that is held at Glynco, GA, and found it to be very helpful.

The benefits to interjurisdictional cooperation between the local departments through the professional associations that develop at these federally-sponsored training opportunities cannot be overstated. They've proven to be of value when the person at the other end of the line is not just a name or a voice.

The development of evidence-detection techniques and advancement of crime-solving technology is an expensive and demanding effort. The Federal Government is better able to absorb the cost of such research and development and share the results with the smaller governmental agencies, such as the medical examiner's offices or local law enforcement.

We are in trial today, as I speak, in a case involving a serial rapist. He was convicted in a trial shortly ago for the first several of

those incidents in that series of rapes and is now on trial for the additional charges. In each case, the victims were beaten very quickly and severely at the outset of their attack, and they are unable to personally identify their attacker. The DNA evidence provided by the FBI laboratory insured that this violent man was convicted, and we are again relying on DNA evidence in the current trial.

When cases cross State lines, either because the offender flees or because the criminal enterprise is multistate, the cooperative efforts of the State and local agencies in Delaware have been successful. More times than I can count, we have called upon our Federal agencies to assist us in getting UFAP warrants, which is an unlawful flight to avoid prosecution, and never have we been refused or delayed in our efforts.

This week we honor those who assist in locating missing and exploited children. The Federal agencies have been of great assistance to local law enforcement in this effort. I've seen evidence that the FBI is now giving more priority this kind of case, and I commend them for that.

But I would like to acknowledge a Federal agency that I found most helpful and concerned when a child was abducted from Delaware. He was later recovered about 14 months later. When I mentioned the assistance of this agency to the National Center for Missing & Exploited Children, they said, "Aren't they great?" That is the postal inspectors. They are not an agency, I don't think, that was probably on the front burner today, but I have to tell you that even now I get a call regularly from our postal inspector assigned to our State just to see what's happening and if there's anything he can do. And they really are genuinely interested and part of our community there.

Finally, I have to comment on another national effort that has meant a difference to law enforcement in the capture of criminals and the recovery of abducted or missing children, the TV show "America's Most Wanted." Over the 9 years the show was on the air, it has directly affected the arrest of over 400 offenders, many of whom committed very violent crimes. That's an average of more than one capture per broadcast, and the solace that the show's successes have given to victims is incalculable. It is to this show that we in Delaware have turned in our most frustrating and difficult cases, often cases where we have exhausted every other resource.

Recently it was announced that that show is going to be dropped by the network that it's shown on because it doesn't make enough money for the network. I just call upon the media to continue that show on whatever network. I feel compelled to comment that the media should not just be counting dollars; they should be counting the lives that have been positively affected by this program.

The final thing that I would say is that I see the role of the Federal Government predominantly in the areas I have discussed, a supportive role in training, research and development, interstate assistance, and to help us with other access to information required by Federal regulations or understanding Federal regulations when they can assist us in the detection of crime or the location of criminals. We do believe that the local law enforcement agency should be the primary law enforcement team to which we look, but we do

have an excellent relationship—I'm not sure how the testimony will go for the Federal agencies for the rest of the day, but we have excellent and personal relationships with the Federal agents assigned to our agencies in Delaware.

[The prepared statement of Ms. Brady follows:]

Thank you very much for the opportunity to address this body. On behalf of the National Association of Attorneys General, and our President, Tom Udall of New Mexico, we appreciate the invitation.

The office of the Attorney General of the State of Delaware is nearly unique in the country, in that it has original criminal prosecution responsibility. We have no county elected District Attorneys, and serve as the DA and Attorney General in our state. As a state, we are small, manageable, and proud of the way we get the job done.

Our state has a full service state police force, and approximately 40 local departments. The Office of the Attorney General prosecutes the arrests made by these departments, and works closely with each of them.

Delaware provides a model for federal - state - local relations. I recall one case I handled which will fairly reflect the relationship between agencies in my state. The case involved a wiretap of an illegal gambling operation. We secured approval to establish the wire prior to, and culminating on, SuperBowl Sunday. During the time the wiretap was up and running, there were equipment and intense personnel requirements. Members of the FBI and the DEA sat beside the state and city police officers and staffed the effort. They provided some equipment, the purchase of which was not within the usual budget of the local authorities. At the conclusion of the wire, we executed seven simultaneous search warrants, and their assistance was again needed, They were there. After arrest, it was determined that as to several of the principals, at least one of whom appeared in the Pennsylvania Crime Commission's report on organized crime, the penalties available to the federal authorities exceeded those available to the state, and prosecution of those individuals was referred to the United States Attorney. At no point in time was there any concern beyond doing the best job, together, that could be done.

Another, more recent case illustrates the continuing cooperative relationship the federal and state agencies have in Delaware. Tragically, a man was murdered and his gun shop robbed in our state. The Delaware State police had jurisdiction over the case. While the police followed their scarce leads to determine the identity of the perpetrators, the ATF immediately came to their assistance, getting information from the forms required to be filed federally, to identify what type and how many guns had been stolen. When the perpetrators were found, the guns, which could, as a result of the assistance of the ATF, be identified as proceeds of the robbery, were recovered. The assistance of the ATF was critical, because the perpetrators were headed out of state, and a delay of even several more hours - which would have made a difference - those guns would have been in the hands of criminals on the streets. A joint press conference was held acknowledging the crucial role each agency had in the successful investigation. That case is pending trial, and ATF continues to assist, offering testing and analysis of fingerprint and other evidence.

We rely upon the federal government's role to provide training to state and local law enforcement, to keep them up to date on the latest evidence collection techniques and detection capabilities. Officers from our state, and from our State fire Marshall's office attend that training. I personally attended the ATF course, Arson for Prosecutors, at the training facility in Glynco, Georgia. The benefits to inter-jurisdictional cooperation between local departments through the professional associations which develop at these national training opportunities cannot be overstated.

The development of evidence detection techniques and advancement of crime solving technology is an expensive and demanding effort. The federal government is better able to absorb the cost of such research and development, and share the results with all the smaller governmental agencies, such as medical examiners and law enforcement. We are in trial today, as I speak, in a case involving a serial rapist. He was convicted in a trial shortly ago for the first several incidents, and is now in trial for additional rapes. In each case, the victims were beat quickly and severely about the face at the outset of their assaults, and are unable to identify their attacker. DNA evidence provided by the FBI laboratory insured that this violent man was convicted. We are again relying on DNA in the current trial.

When cases cross state lines, either because the offender flees or because the criminal enterprise is multistate, the cooperative efforts of the federal and state agencies in Delaware have been successful. More times than I can count, we have asked the federal authorities in Delaware to assist us by filing UFAP warrants, (Unlawful Flight to Avoid Prosecution). Never have we been refused or delayed.

This week, we honor those who assist us in locating missing and exploited children. The federal agencies have been of great assistance to local authorities in this effort. I have seen evidence that the FBI is now giving more priority to this type of case than previously, and commend them for that. I would like to acknowledge, however, a federal agency I found most helpful and concerned when a child was abducted from Delaware, (he was finally located 14 months later), the Postal Inspectors. When I mentioned their assistance and concern to the staff at the National Center for Missing and Exploited Children, the response I got was "Aren't

they great?" I thought they should be acknowledged.

Finally, I must comment on another national effort that has meant a difference to law enforcement in the capture of criminals and the recovery of abducted or missing children - the TV show America's Most Wanted. Over the nine years the show has been on the air, it has directly affected the arrest of over 400 offenders, often responsible for very violent crimes. That is an average of more than one capture per broadcast. The solace the show's successes have given to victims is incalculable. It is to this show that we in Delaware have turned in our most frustrating and difficult cases - often cases in which we have exhausted all other resources. Recently it was announced that this show will be taken off the air because it doesn't raise enough money for the network. I call upon the media to continue this show, on whatever network. I feel compelled to comment that they should not only count dollars, they should count the lives the show has positively affected.

Mr. MCCOLLUM. Well, thank you very much, Ms. Brady.

Mr. Justice, you're recognized. Please let us have the wisdom of your words.

STATEMENT OF JOHN R. JUSTICE, SOLICITOR, SIXTH JUDICIAL CIRCUIT, CHESTER, SC, AND VICE PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION

Mr. JUSTICE. Mr. Chairman, honored Members of Congress, on behalf of the Nation's local prosecutors, I wish to thank you for the opportunity to voice both our support and our concerns for the relationship between law enforcement offices of the various levels of our Government.

I am John Justice. I'm the circuit solicitor, which is the State prosecutor, in the Sixth Judicial Circuit of South Carolina. This is a jurisdiction of just over 100,000 people living in small towns and rural areas over a three-county area. My circuit borders upon North Carolina and basically lies between Charlotte, NC, and Columbia, SC. I've been honored to be elected five times to this office, having served 18 years to this point. I still actively try cases as well as supervise a staff that includes four assistants, and annually my office handles more than 3,000 felony cases.

I've been a member of the National District Attorneys Association for just over 15 years and proud to be serving today as a vice president of that organization as well as a member of its executive committee. Along with Honorable Jack O'Malley of Cook County, IL, I'm here today to present you the views of that 7,000-member organization.

My testimony is also colored by having served for two years as a member of the Executive Working Group, which is an informal committee started by Attorney General Ed Meese in the eighties and continued by every Attorney General since then. The EWG is comprised of active district attorneys representing our national association, a number of attorneys general representing the NAG association, as well as high-ranking members of the Department of Justice, including also the Criminal Justice Division as well as online U.S. attorneys. We meet three or four times a year, and its primary goal is to minimize and prevent problems developing among the various levels of law enforcement.

Local prosecutors and local law enforcement possess knowledge of their community and its citizens that most Federal authorities are hard-pressed to match. I have lived and worked in my jurisdiction virtually all my life, and I stay close in touch with the community on a personal level, and I've stood for election every 4 years for the last 18 years.

I'm not unique in this regard. The average elected solicitor in South Carolina is currently in his third 4-year term. The U.S. attorney and the resident agents for any of the Federal law enforcement agencies seldom have the same long-term knowledge or commitment to our communities. As a practical point, the U.S. attorney resides in Columbia, 55 miles away from my jurisdiction, and during the time that I've been in office I have served with at least 12 different U.S. attorneys or acting U.S. attorneys.

This knowledge of the community permits my office to effectively prosecute a large volume of criminal cases. We understand, when

we have the criminal justice system intervene, what charges are appropriate and what disposition is acceptable to the community. Based on my own experiences and those of my colleagues across the country, I can assure you that, as a matter of routine law enforcement, all levels of government do work generally well together. And as the vice president of a nationwide organization, let me further assure you that, given the overlapping nature of many of the State and Federal criminal statutes, we all do our best to minimize conflict and stretch precious assets.

Lastly, as previously a member of the Executive Working Group, I promise you that any disharmony between the various levels of law enforcement is honestly and earnestly laid on the table at our meetings, and under the leadership of Attorney General Janet Reno, the Department of Justice quickly takes action if it appears that one of its components is infringing upon the prerogatives of local law enforcement. I would note, however, that the Department of Justice is the only Federal Department or agency that participates in a program such as the EWG.

The National District Attorneys Association has long opposed the unwarranted federalization of crime and the intrusion by Federal law enforcement into traditionally-local issues. Our position on unwarranted federalization is premised upon the belief that there is more than enough crime for the combined efforts of State, Federal, and local law enforcement authorities to combat.

Truly effective and efficient use of these limited resources mandates a division of labor in fighting crime at all levels. On the local level, my colleagues and I are quite capable of prosecuting cases that are typically local in origin and execution. I also believe that the police organizations in my judicial circuit are quite capable of providing the necessary levels of intensity in skill in solving these same types of crimes, as are most other police forces in the Nation. I do not need the FBI help in investigating a youth bringing a gun to school or the U.S. attorney to prosecute an armed robbery. Traditional local law enforcement has been effective in addressing traditionally truly local problems.

There is, however, a flip side to the federalization coin, one that is much more pronounced probably in small jurisdictions such as my own than in the larger jurisdictions that have greater resources. And that is the serious case that necessitates investigations that cross State lines, in which Federal law enforcement could greatly expedite the closing of the case and the bringing of the guilty to justice.

For instance, cooperative efforts between local and Federal enforcement agents have been especially effective in combating far-flown drug distribution rings across county and State lines. Having a small jurisdiction near a State line, I find that at least once a year I have a homicide or other serious offense where the defendants and the witnesses are outside the State of South Carolina. Even more frequently, I have seen a need to obtain business records or other documentary evidence in possession of persons or corporations across the State. My experience has been, unfortunately, that some requests for Federal assistance are met with a lukewarm response at best. Whether this is based on allocation of Federal resources, communications between agencies, or agency

policy, I cannot hazard a guess, but when I do need Federal help, it is often difficult to get and takes more time and effort than it should.

While failing to get Federal investigative help in legitimate cases across State lines, I do get periodic requests to adopt or assume jurisdiction over cases that clearly fall within the realm of State jurisdiction but have greater headline value to the Federal authorities. We call this "cherry picking," in that they only take the winnable headline cases and leave us with the rough or routine ones.

Frequently these requests for taking a case arise after local authorities have done the hard work and the successful investigation or prosecution of the case will make the Federal agency look good in the media or get them some statistical data they need for annual funding fights.

The crux of the issue, as we see it, is to ensure the most effective and efficient use of all law enforcement resources in a cooperative spirit with minimal duplication of effort. The reality of government today at all levels is too few resources. Law enforcement dollars are precious. We cannot afford to waste them.

Congress can be a leader in carefully watching the federalization of criminal offenses and the escalating intrusion of local prerogatives. You can also be of assistance to law enforcement through the initiatives such as local law enforcement block grants and the funding of technical assistance such as DNA capability at the State and local levels.

Additionally, I cannot stress the importance of regular meetings, as that of the Executive Working Group, between local, State, and Federal law enforcement authorities. This is a forum where problems can be identified and solutions developed before major crises arise. Our working relationships with the Department of Justice are excellent and have been for quite some time. However, that took years to develop, and only personal attentions of high members of the executive departments such as General Reno or the Director of the FBI gave the Executive Working Group legitimacy in the Federal law enforcement agencies. I would again note that only the Justice Department participates in such an organization, and I would urge the other Federal law enforcement agencies to form a similar organization for communications.

On behalf of the National District Attorneys Association, I thank you.

[The prepared statement of Mr. Justice follows:]

PREPARED STATEMENT OF JOHN R. JUSTICE, SOLICITOR, SIXTH JUDICIAL CIRCUIT, CHESTER, SC, AND VICE PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION

On behalf of this country's local prosecutors, I wish to thank you for this opportunity to voice our support, and our concerns, on the working relationships between law enforcement organizations at the local, state and federal levels of government.

I am John Justice, Circuit Solicitor (state prosecutor) of the Sixth Circuit of South Carolina, a jurisdiction of just over 100,000 people living in small towns and rural areas over a three county area. My Circuit is located on the border with North Carolina and is between Charlotte, North Carolina, and Columbia, South Carolina. I have been honored to serve in my current office for 18 years, having been elected to office 5 times. I still actively try cases as well as supervise a staff that includes four assistant Solicitors. Annually, my office handles more than 3,000 felony cases. Because I prosecute in 3 separate counties my office budget comes from each of the different counties ,as well as the state, and obviously requires close management to

ensure that the funds are spent in support of the appropriate county when investigating and prosecuting a case.

I have been a member of the National District Attorneys Association for 15 years and am proud to be serving the prosecutors of America as a Vice President and as a member of the Executive Committee of that organization. I am here today, along with Jack O'Malley, to present you with the views of that 7000 member organization.

My testimony is also colored by having served for two years as a member of the Executive Working Group, which is an informal committee started by Attorney General Ed Meese in the early 1980's and continued by every Attorney General since then. The EWG is comprised of active district attorneys, representing the National District Attorneys Association; attorneys general, representing the National Association of Attorneys General; and representatives of the Department of Justice including ranking members of the Criminal Division as well as U.S. Attorneys. Meeting three or four times a year, the EWG has as its primary goal to minimize and prevent problems developing among the various levels of law enforcement.

Local prosecutors and local law enforcement possess knowledge of their community, and it's citizens, that most federal authorities are hard pressed to match. I have lived and worked in my jurisdiction virtually all my life. I stay in close touch with my community on a personal level and I have stood for election there every 4 years. I am not unique in this regard. On the average, the current elected solicitor in South Carolina is on his third, four year term. The U.S. Attorney and the resident agents for any of the federal law enforcement agencies seldom have the same long term knowledge of or commitment to our communities. As a practical point, the U.S. Attorney for South Carolina is in Columbia, some 55 miles away, and, during my tenure in office, this post has been held by more then a dozen individuals either in a permanent or acting capacity. This knowledge of the community permits my office to effectively prosecute a large volume of criminal cases. We understand when to have the criminal justice system intervene, what charges are appropriate, and what disposition is acceptable to the community.

Based on my own experiences, and those of my colleagues across the county, I can assure you that as a matter of routine, law enforcement at all levels of government does generally work well together. As the Vice President of a nation-wide law enforcement Association let me further assure you that, given the overlapping nature of many state and federal criminal statutes, we all do our best to minimize conflict and stretch precious assets. Lastly, as a member of the Executive Working Group, I promise you that any disharmony between the various levels of law enforcement is honestly and earnestly laid on the table at our meetings and that the Department of Justice quickly takes action if it appears that one of its components is infringing upon the prerogatives of local law enforcement. I would note, however that the Department of Justice is the only federal department or agency that participates in such a program.

The National District Attorneys Association has long opposed the unwarranted federalization of crime and the intrusion by federal law enforcement into traditionally local issues. Our position on unwarranted federalization is premised upon the belief that there is more than enough crime for the combined efforts of federal, state and local law enforcement authorities to combat. Truly effective and efficient use of these limited resources mandates a division of labor in fighting crime at all levels. On the local level my colleagues and I are quite capable of prosecuting cases that are typically local in origin and execution. I also believe that the police organizations in my judicial circuit are quite capable of providing the necessary levels of intensity and skill to solving these same types of crimes, as are most other police forces in the nation. I do not need FBI help in investigating a youth bringing a gun to school or the U.S. Attorney to prosecute an armed robbery. Traditionally local law enforcement has been effective in addressing truly local problems.

There is, however, a flip side of the federalization coin, one that is more pronounced in small jurisdictions, such as mine, then in larger ones. That is the serious case that necessitates investigations that cross state lines in which Federal law enforcement could greatly expedite the closing of a case and bringing the guilty to justice. For instance, cooperative efforts between local and Federal law enforcement agencies have been especially effective in combating far-flung drug distribution rings that cross county and state lines.

Having a small jurisdiction near such a state line, I find that at least once a year I have a homicide, or other serious offense, where the defendants and witnesses are outside the State of South Carolina. Even more frequently I have seen a need to obtain business records and other documentary evidence in the possession of persons or corporations outside of the State.

My experience has been, unfortunately, that some requests for federal assistance are met with lukewarm response at best. Whether this is based on allocation of federal resources, communications between different federal offices and agencies or agency policy I cannot hazard a guess. But when I do need federal help it is often difficult to get and takes more time and effort then it should. While failing to get Federal investigative help in legitimate cases that cross state lines, I do get their periodic requests to "adopt," that is assume jurisdiction over, cases that clearly fall within the realm of state jurisdiction but have greater "headline" value to the federal authorities. We call this "cherry picking" in that they only take the winnable headline cases and leave us with the tough or routine ones. Frequently these requests for taking a case arise after local authorities have done the hard work and the successful investigation or prosecution of the case will make the federal agency look good in the media or get them some statistical data they can use in the annual fight for funding.

The crux of the issue as me it is to insure the most effective and efficient use of all law enforcement resources in a cooperative spirit with minimal duplication of effort. The reality of government today, at all levels, is too few resources. Law enforcement dollars are precious and we can't afford to waste them. Congress can be a leader in carefully watching the federalization of criminal offenses and the escalating intrusion on local prerogatives. You can also be of assistance to local law enforcement through initiatives such as the Local Law Enforcement Block Grants and the funding of technical assistance, such as DNA capability, at the state and local levels of government.

Additionally, I cannot stress the importance of regular meetings, such as that of the Executive Working Group, between local, state and federal law enforcement authorities. This is a forum where problems can be identified and solutions developed before a major crisis arises. Our working relationships with the Department of Justice are, and have been, excellent. This was a relationship, however, that took years to develop. Only the personal attention of high members if the Executive Department, such as the Attorney General or the Director of the FBI, gave the Executive Working Group legitimacy in the federal law enforcement community. As I noted earlier, the Department of Justice is the only federal law enforcement agency to participate in these type of meetings. With the proliferation of federal law enforcement agencies and interests I would urge other federal departments with law enforcement responsibilities to develop a similar approach to involving local and state law enforcement agencies in solving mutual problems. In South Carolina I intend to urge that a similar forum be set up, involving both state, local and federal law enforcement asset within the state, to ensure efficient use of resources and to resolve conflicts between the various law enforcement organizations.

While I recognize that much attention has been given to aberrant, albeit tragic, situations such as Ruby Ridge and Waco I urge that the American public and the Congress focus on the true picture of the team work and effort put forth by those on the front lines of fighting crime. Daily we are making the system work—we resolve our differences as professionals and understand that we all have the same ultimate goal: protecting the public.

On behalf of the district attorneys of this nation, I thank you, and this Subcommittee for this opportunity to testify.

Mr. MCCOLLUM. Thank you very much, Mr. Justice.

Mr. O'Malley, please let us hear from you.

STATEMENT OF JACK O'MALLEY, STATE'S ATTORNEY, CHICAGO, COOK COUNTY, IL, AND PAST VICE PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION

Mr. O'MALLEY. Thank you, Mr. Chairman. On behalf of the National District Attorneys Association, I join with Mr. Justice in thanking you for the opportunity to appear here.

The jurisdiction of the Cook County State's attorney's office is the city of Chicago and the suburbs of that city located within Cook County. It covers approximately 1,000 square miles and contains almost 6 million people. My office is responsible for prosecuting crimes committed in more than 130 different municipalities, including the city of Chicago and unincorporated areas of Cook County. In doing so, we work with 127 different suburban police depart-

ments, the city of Chicago Police Department, the Cook County Sheriff's Police, the Illinois State Police, whose director you'll hear from in a few minutes on the second panel—that's Mr. Gainer—and other local law enforcement agencies. In addition, we work closely with various Federal agencies and the U.S. Attorney's Office.

The nearly 900 assistant State's attorneys in my office prosecute approximately 65,000 adult felony cases, 36,000 juvenile delinquency cases, 18,000 child abuse and neglect cases, in excess of 300,000 misdemeanor cases, and 19,000 civil cases. We are very good at what we do because of the hard work and the talents and the commitment of the career prosecutors in my office. We're also good at what we do because of our expertise and our connection to the communities of Cook County.

The kinds of crime that the people of America are most afraid of and concerned about—murder, drug dealing, sexual assault, robbery, auto theft, other forms of assault, and juvenile delinquency and gang offenses—are the kinds of offenses we deal with on the streets and in the local courtrooms every day. State law addresses these crimes that the people in my communities worry about. When changes in the law are needed, we work with the State legislature to change those laws. In our day-to-day activities we work with the local court system and other local law enforcement agencies, also local social service agencies, and, most importantly, the people of the communities of Cook County.

From my perspective and that of the members of the National District Attorneys Association, local people addressing local crime issues is the most effective and preferred course of action. That is not to say that we do not need assistance and cooperation from Federal law enforcement.

In Cook County our relationship with the Federal authorities has been excellent. Most recently, it led to indictments and ongoing prosecutions of the leaders of the street gang known as the Gangster Disciples. This gang has been a major problem in the Chicago area and has spread throughout Illinois and across State lines for many years, despite the fact that we have placed approximately 6,000 of them into the State prison system to date. The problem is that they have 30,000 additional members in the gang. Like most street gangs, their major enterprise has been the distribution and sale of narcotics.

The indictments and prosecution of the Gangster Disciples leaders would not have been possible if not for a coordinated, long-term, sophisticated investigation by local, State, and Federal authorities. In fact, a group of my assistant State's attorneys have been cross-designated as assistant U.S. attorneys and are co-prosecuting the cases with the U.S. attorney's office in Chicago.

This is the type of cooperation that we want to see continue from the Justice Department, and we urge Congress to foster. Federal law enforcement agencies and Federal law are extremely useful when it comes to long-term, multijurisdictional investigations and prosecutions. They have resources and technical capabilities many local agencies do not have and only need on rare occasions. It is the ability to bring the respective talents and resources of the local and Federal authorities together at the appropriate times that re-

sults in the successes we are all looking for in the fight against crime.

We feel that the Federal Government should continue its traditional role of prosecuting these kinds of multijurisdictional crimes and complex white collar crimes, and that Congress should support local law enforcement efforts to combat traditional street and violent crime. For example, we could get a lot of help if we could transfer dangerous gang leaders to Federal prisons. This could provide a tremendous assist to us. As I mentioned, we have 6,000 Gangster Disciples just from one gang in the Illinois State prison system. If we could transfer some of those leaders to Federal prisons in Illinois, that would be very helpful to us.

Local leads in the fight against crime are, in our opinion, best determined by local authorities. We do not think the Federal Government should dictate any single inflexible strategy. One size does not fit all. Some communities may reduce crime by increasing the number of police officers. Other communities may want to take a different approach. The wisest strategy is one that allows for the wisest solution to be implemented in each community by the community.

Another concern of the National District Attorneys Association is unwisely federalizing more street crime. For example, carjacking; I believe carjacking has been a Federal crime for about 2½ years. During that period of time, my office has prosecuted more than 1,000 cases of carjacking. The U.S. attorney's office in Chicago has prosecuted few, if any, cases of carjacking. And that is not intended to be a criticism of the U.S. attorney's office.

Typically, a carjacking case occurs; it's handled by local police and brought to my office's attention. The fact is the Federal court system is not designed to handle this kind of crime. The people on the front lines with this kind of crime are the local police and the local prosecutor. And this raises the question of whether federalizing carjacking and similar types of offenses has any significant effect over the commission of the offense to begin with, and I suspect not. However, our biggest concern is that it raises expectations amongst the public that somehow it's going to help a great deal by federalizing it.

The relationship between State, local, and Federal law enforcement authorities is very strong and productive, and used in appropriate cases, it has brought about great results. I am also a member of the Executive Working Group, which Mr. Justice described for you, and I want to commend Attorney General Janet Reno for continuing the Executive Working Group. She sends her top people and personally attends the meetings, and if I have a question or concern, either personal or on behalf of another member or members of the National District Attorneys Association, we have a forum where we can air those, and keeping that line of communication open is imperative. It is the best thing we can do.

On behalf of the people of Cook County and the local prosecutors who are members of the National District Attorneys Association, thank you.

[The prepared statement of Mr. O'Malley follows:]

PREPARED STATEMENT OF JACK O'MALLEY, STATE'S ATTORNEY, CHICAGO, COOK COUNTY, IL, AND PAST VICE PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION

On behalf of the National District Attorneys Association, I wish to thank the Subcommittee for this opportunity to speak about the working relationships between local and federal law enforcement organizations.

I am Jack O'Malley, State's Attorney of Cook County, Illinois. I have served as Cook County State's Attorney since 1990. In addition to my experience as a local prosecutor, my credentials before becoming State's Attorney include 9 years as a Chicago police officer both as a uniform officer and as a member of a tactical unit.

Since becoming State's Attorney, I have been a member of the National District Attorneys Association. I have served as a Vice President of that Association and currently sit as a member of the Board of Directors. Additionally, I am a member of the Executive Working Group, comprised of a small number of representatives of the National District Attorneys Association, the National Association of Attorneys General and the Department of Justice, who's function is to identify and resolve issues between the different levels of government as they pertain to the prosecution of criminal cases.

The jurisdiction of the Cook County State's Attorney's office is Chicago and its suburbs within the county—covering roughly 1000 square miles and containing close to 6 million people. My office is responsible for prosecuting crimes committed in more then 130 municipalities, including the City of Chicago and the unincorporated areas of Cook County. We work with 127 suburban police departments, the Chicago Police Department, the Cook County Sheriff's Police, the Illinois State Police and other local law enforcement agencies. In addition we work very closely with the U.S. Attorney's Office for the Northern District of Illinois and various other federal law enforcement agencies such as the FBI, DEA, and the Secret Service.

Unfortunately for the people of Cook County, I must utilize the talents of nearly 900 Assistant State's Attorneys. That many prosecutors are needed to handle, annually, approximately 65,000 adult felony cases, 36,000 juvenile delinquency cases, 18,000 child abuse and neglect cases, 300,000 misdemeanor cases, and 19,000 civil cases. The dedication and hard work of my Assistant State's Attorneys has resulted in a conviction rate exceeding 90% in 1995.

My of rice is highly successful in prosecuting crime because we have the expertise, experience and connection to the community that is needed to combat the types of crimes that most affect the American people. Murder, drug dealing, sexual assault, robbery, auto theft, assault, and juvenile delinquency are the kinds of offenses that we deal with on the streets and in the court every day. State law addresses these crimes that the people in my community worry about. When changes in the law are needed we work with the state legislature to change those laws. In our day-to-day activities, we work with the local court system, the local law enforcement agencies, the local service agencies and, most importantly, the people of our community. When crimes are committed and when crime is prevented it is the local people who are most affected and who share most of the responsibility. From my perspective, and that of members of the National District Attorneys Association, local people addressing local crime issues is the most effective and preferred course of action.

That is not to say we do not need assistance from federal law enforcement. Our relationship with federal authorities has been excellent. Most recently, it has led to the indictments and ongoing prosecutions of the leaders of the street gang known as the "Gangster Disciples." This gang has terrorized Chicago for decades and has spread throughout Illinois and across state lines. Like most street gangs, their major enterprise has been the distribution and sale of narcotics. With an estimated 30,000 members and a highly structured chain of command it has been a huge task for law enforcement to combat them. The indictments and prosecutions of the Gangster Disciple leaders would not have been possible if not for a coordinated, long-term, sophisticated investigation by local, state and federal authorities. In fact, a group of my Assistant State's Attorneys have been cross-designated Assistant United States Attorneys and are co-prosecuting the cases with the U.S. Attorney's office in Chicago. While this gang is based locally, we are able to apply federal law to their activities which reach across jurisdictional boundaries. Our success so far in this case is due to the fact that local, state and federal officials were able to pool their resources, apply them in a planned, professional manner and bring to federal court some of the most ruthless criminals in our nation. We have just won the first round of convictions and are preparing for trial on the next.

This is the type of cooperation I urge Congress to foster. Federal law enforcement agencies and federal law are extremely useful when it comes to long-term, multi-jurisdictional investigations and prosecutions. They have the resources and tech-

nical capabilities many local agencies do not have and need only on rare occasions. It is the ability to bring the respective talents and resources of the local and federal authorities together at the appropriate times that result in the successes we are all looking for in the fight against crime. Congress should not be looking to write laws and provide resources that address only one side of the equation. Congress should understand that federal law enforcement needs the tools to perform its traditional role in the justice system—i.e., prosecuting multijurisdictional crimes and white collar crimes, Congress, and the Department of Justice, should also understand that local law enforcement needs the tools to perform its traditional role in the justice system—i.e., combating violent crime. For example, the ability to transfer dangerous gang leaders to federal prisons could provide an opportunity for the federal government to assist a state in managing its prisons.

Local needs in the fight against crime are best determined by local authorities. The federal government should refrain from dictating any single, inflexible strategy—one size does not fit all. Some communities may reduce crime by increasing the number of police officers; other communities may have very different needs in order to reduce crime. The wisest strategy is the one that allows for the wisest solution to be implemented in each community by that community.

Another concern is that the lines between federal and local authority may be unwisely blurred in a rush to federalize more and more street crime. To truly have a positive effect of the fight against crime, Congress should help local authorities expand their prisons and jails, help provide for their crime prevention initiatives and address the needs of the people of their communities.

A street crime being federalized, such as car jacking, sometimes raises false expectations that a problem will be eliminated. In the last 2½ years my office has prosecuted more then 1000 cases of carjacking—called vehicular hijacking in Illinois. Since carjacking was federalized in 1993, the U.S. Attorney's office rarely gets these cases and, when it does get them, most are referred to my office for prosecution. This is not a criticism of the U.S. Attorney. Typically when a carjacking occurs the local police make the arrest. They generally have a very short time that they can hold a suspect before charges must be filed. The local police call my office's Felony Review Unit, and, if the facts warrant, we approve charges and initiate a case, usually within 5 or 6 hours. My office, and the state criminal justice system, are extraordinarily equipped to handle these cases. The fact is, the federal system is not designed nor was it ever intended to handle this type of crime. The people on the front lines with this kind of crime are the local police and the local prosecutor. This raises the question of whether federalizing carjacking, and similar types offenses, has had any significant effect over the commission of the offense to begin with. I suspect not.

The relationship between local, state and federal law enforcement authorities is strong and productive. Used in the appropriate cases, it has great results. I strongly support the Executive Working Group's efforts in keeping lines of communication open and it's support for combined local and federal initiatives. I urge Congress to write laws and appropriate resources which provide for a flexible approach to fighting crime, to promote cooperation and the efficient utilization of the often unique expertise and missions of the different law enforcement agencies.

On behalf of the people of Cook County, and the local prosecutors of the National District Attorneys Association, I thank the Subcommittee for this opportunity to provide our insights on the law enforcement responsibilities of the various levels of government.

Mr. MCCOLLUM. Thank you very much, Mr. O'Malley.

I'll recognize myself for a first round of 5 minutes of questioning.

Attorney General Brady, you've heard both Mr. Justice and Mr. O'Malley mention the Executive Working Group. Are you familiar with that?

Ms. BRADY. Yes, I am, and have asked Attorney General Scott Harshberger of Massachusetts, who will be president of the National Association of Attorneys General, if I might serve on that group in the next year during his term, since I am one of the few attorneys general with direct criminal responsibility.

Mr. MCCOLLUM. Well, one of the things that I'm curious about in terms of that group, and the comments by Mr. Justice and Mr. O'Malley—and really it's to be directed to all three of you then—has to do with the fact that this is sponsored by the Justice Depart-

ment, and, obviously, it's something you all are very aware of and involved with. Is there any kind of involvement with that or any similar type of involvement with any of the Treasury Department law enforcement agencies, to your knowledge? I'll ask all of you, but, Ms. Brady, are you——

Ms. BRADY. None to mine.

Mr. MCCOLLUM. Mr. Justice.

Mr. JUSTICE. We've had officials from the Treasury Department invited to the EWG to talk about specific subjects, but there's not an ongoing organization of a similar kind involved in the Treasury.

Mr. MCCOLLUM. Mr. O'Malley, are you familiar with any relationship particularly to the Treasury agencies?

Mr. O'MALLEY. I agree with what Mr. Justice said; we've had presentations from them. I am aware that the National District Attorneys Association has suggested to the Treasury Department the creation of a similar group, but they have not created one to date.

Mr. MCCOLLUM. Has that been quite a long time ago or is this a current ongoing deal?

Mr. O'MALLEY. It's a current process.

Mr. MCCOLLUM. Current? All right, thank you.

Is the relationship other than the working group, Mr. Justice, sufficient with the Treasury agencies? In other words, do you see people from BATF, Customs, or have similar type relationship that you would on a regular basis with FBI or other Justice Department agencies, like DEA, or is this something that's much rarer for you to see the Treasury officials in your capacity?

Mr. JUSTICE. In recent years I'm seeing Treasury law enforcement officials as often or more often than I am Justice Department in my jurisdiction, particularly the ATF. They have branched out into drug enforcement to a large extent. I am in communication with them as much as I am anyone, and that's why we all feel that such a similar group with Treasury would be of assistance.

Mr. MCCOLLUM. What about you, Mr. O'Malley?

Mr. O'MALLEY. I agree with Mr. Justice and that is why I think the National District Attorneys Association has asked for the creation of the Executive Working Group. We have found that if there's going to be some investigations involving different levels of law enforcement, it's imperative that there be communications, even just for the issue of safety of officers, and that's something we deal with seriously at the State and local level as well. We have to be concerned about State police, city police, and different agencies coming in. And when you bring in Federal agencies from a number of different Federal agencies, those problems are compounded.

Mr. MCCOLLUM. Well, I'm going to ask you an unfair question, but at the same time it's one I need to ask, I think. And that is, Do you see any differences in these agencies in their degree of professionalism? Are there some that are more professional, better trained, in your opinion? Have you observed that, Mr. O'Malley, whether it's—it doesn't have to be Treasury versus Justice agencies, but just among the agencies that you deal with at the Federal level.

Mr. O'MALLEY. Well, as you said, it's an unfair question, but I have—so I want to give you the response. I can only respond personally.

Mr. MCCOLLUM. I understand that.

Mr. O'MALLEY. I am not equipped to answer that. As you said in your opening remarks, we are here as representatives of larger organizations, and I candidly am not——

Mr. MCCOLLUM. But from your personal——

Mr. O'MALLEY. My personal experience, no. My personal experience working with the various Federal agencies in the Chicago area is that they are equally trained, and we've had an adequate working relationship with them. Now whether or not that's the view of the National District Attorneys Association, again, I'm not equipped to say, but my personal experience working with ATF and other Treasury agencies and the Secret Service and the DEA and even Immigration and sometimes postal authorities—for example, we work with postal authorities in child pornography cases and with Customs on that sort of thing. And we have, principally by keeping open at our local level here the lines of communication, we've had success.

Mr. MCCOLLUM. Without getting into long answers, but just in general, Ms. Brady or Mr. Justice, do you see in your relationships with any of these agencies any deficiencies in terms of one versus the other? Again, an unfair question for you in terms of the organizations you represent, but do you personally? Have you observed a difference in professionalism among any of them?

Ms. BRADY. No difference in professionalism, but I must say that, in terms of responsiveness, our greatest frustrations have been with INS.

Mr. MCCOLLUM. And why is that?

Ms. BRADY. We prosecute people from out of the country who are convicted of felonies. We want to get them deported. It's really just very, very difficult. I'm not always sure why there's such a difficulty, but it has been a problem.

Mr. MCCOLLUM. In terms of the communication as well as in terms of their react time?

Ms. BRADY. Their responsiveness. We had a man who, because they assured us he would be deported, for instance, the court suspended a lengthy mandatory sentence in a drug trafficking case for him to be deported to Haiti, and he was taken to Philadelphia in custody and there was placed on the street because he asked for a hearing. We were completely shocked. We've put him back in jail. We just didn't trust the agency to deal appropriately with the incident.

Mr. MCCOLLUM. Well, that's the type of thing we want to hear—we don't like to hear, but we want to hear, because that's important to us.

Mr. Justice.

Mr. JUSTICE. Mr. Chairman, if I could give a short answer to that question——

Mr. MCCOLLUM. Sure.

Mr. JUSTICE. Without disparaging any other agency of any other department, there's no question in my mind from my personal ex-

periences—the FBI's still the most professional, the most competent law enforcement organization in the country.

Mr. MCCOLLUM. They're going to like to have heard that, and I'm sure that's generally true. I've probably said that a few times myself, even though that is, as you say, not disparaging of any of the others.

My time is up, but I would, Mr. O'Malley, before the day or the morning is out, like to hear some more, and maybe somebody else will ask you about it, about the transfer of gang members to Federal prisons, which you particularly mentioned. But since my time is up, I'll revisit it later, if nobody else asks you about it.

Mr. Scott—or Mr. Conyers—do you want to defer to the ranking full committee member?

Mr. CONYERS. Thank you very much.

Mr. MCCOLLUM. Mr. Conyers, we're welcome to have you here this morning.

Mr. CONYERS. It's an unusual morning here.

Good morning, witnesses.

Attorney General Brady, you're very popular with this committee, aren't you? [Laughter.]

Ms. BRADY. It seems so, sir.

Mr. CONYERS. Yes.

Ms. BRADY. It's nice to see you again.

Mr. CONYERS. Well, it's a pleasure to hear you again as well.

Now what is the bottom line of your—if someone had to say, "What did Attorney General Brady come here and tell us about this complexity of overlapping law enforcement jurisdictions," what should my staff tell?

Ms. BRADY. That we deeply appreciate the supportive role that the Federal Government can play to local law enforcement in terms of training, research and development, and assisting us in both understanding or providing information required by Federal regulations.

Mr. CONYERS. What did you say? Do that again.

Ms. BRADY. That we appreciate the supportive role that the Federal agencies can play to local law enforcement in their crime prevention and detection and solution efforts through training, research and development, and helping us understanding or get information required by Federal regulations.

Mr. CONYERS. So everything is OK; you need more dough?

Ms. BRADY. No, I'm not asking for any money.

Mr. CONYERS. All right, good.

Ms. BRADY. And, in fact, you could save yourself some money if you better delineated who did what among the Federal agencies. There's some duplication of the performance of some of the responsibilities between agencies, and that would be a sensible cost-saving measure, to delineate where the responsibilities lie, who's developing the technology, that kind of thing.

Mr. CONYERS. Well, I think that's why the chairman conceived of and called these hearings. Now it is not much of a secret about the overlapping of law enforcement jurisdictions and duplicative activities, and dare I raise the subject, competition among them in terms of some kinds of cases that go on, is it? Is that not widely known?

Ms. BRADY. Widely rumored. [Laughter.]

Mr. CONYERS. Widely rumored. OK.

Ms. BRADY. I'm elected, too. [Laughter.]

Mr. CONYERS. All right. We have to approach this with some sensitivity then, in other words. [Laughter.]

This is not—very diplomatically is the way we'll approach this subject.

But, still, I think the chairman probably had in mind the fact, hell, we've had shootouts among law enforcement organizations. I know you don't know anything about—this has never come to your attention, and Heaven forbid, it has never occurred in your State, but I just raise it with you as the leadoff witness, that this business of, diplomatically putting it, how these jurisdictions bump up against each other sometimes gets pretty rough. Cases have been blown because one law enforcement agency refused to cooperate with the other. That's been rumored, too, hasn't it?

Ms. BRADY. It has been, but let me also suggest there's a great deal of——

Mr. CONYERS. Well, wait a minute now.

Ms. BRADY. OK.

Mr. CONYERS. Are you going to be talking toward my question or you just——

Ms. BRADY. Yes.

Mr. CONYERS [continuing]. Want to add something?

Ms. BRADY. No, I want to talk toward your question.

Mr. CONYERS. OK, fine.

Ms. BRADY. When you're talking about the secrecy with which the Federal Government sometimes conducts its investigations, I think most of us at local levels have a complaint that, unless we get our feet in the door first, we sometimes don't know what's going on in our jurisdiction and we don't find that appropriate at all. And maybe they should——

Mr. CONYERS. I don't blame you. I'd like to know when Members of Congress come into my jurisdiction. I don't like to read about it in the paper, that they were there, any more than you would like to pick up the paper or turn on the news and find out that some other law enforcement group has been working on a case you've been attending for a long time. Does that happen much?

Ms. BRADY. Not frequently, because of the personal relationships we have in Delaware, but it has been frustrating on several occasions.

Mr. CONYERS. I don't know if we'll have a second round or not, but I welcome Mr. Justice's comments.

Mr. JUSTICE. Thank you, sir.

Mr. CONYERS. I want to remind you of some matter that came up at another hearing in the Judiciary Committee involving church bombings with reference to South Carolina. And I was in South Carolina, met the top cops SLED——

Mr. JUSTICE. Chief Robert Stewart.

Mr. CONYERS [continuing]. Chief Stewart, who was, incidentally, a witness. But we had one minister whose church was fire-bombed and he was telling us about one instance in court there, State court, where one of the fellows brought in for arraignment or trial—and it was—the defendants thought it was kind of funny;

they were charged with first degree arson, burglary, and some of them, the defendants were laughing. And one young man even got so carried away he put a card in the air, held a card up that said, "I am a member of the KKK." This is in court. Did you know about that?

Mr. JUSTICE. Now I knew about the cases.

Mr. CONYERS. You heard about it?

Mr. JUSTICE. I had not heard about the holding up the placard in court.

Mr. CONYERS. Well, how could something like that go unnoticed? I mean, for God's sake, I mean, what do we need—the guy needs to—I mean, he was on—it was brought to my attention; I'm bringing it to your attention.

Mr. JUSTICE. Do you know which county this was in? We've had several incidents of this church-burning nature in the last few months.

Mr. CONYERS. Yes, you sure have. Have you been doing anything about it?

Mr. JUSTICE. Well, I've had none in my jurisdiction. I have had not had a church-burning in a number of years. The only two cases where I had church-burnings both—once in Lancaster County, where multiple churches were burned; the individuals involved there got a sentence of 90 years in prison, and they're still in prison. The other burning in Chester, which was an interchurch dispute—the two people involved there were also tried and convicted and are probably now out of jail because that's been about a decade ago.

Mr. CONYERS. OK. How about the Third Judicial Circuit Office of South Carolina?

Mr. JUSTICE. That would be the Sumter area, lying about 40 miles east of Columbia.

Mr. CONYERS. OK. How about the defendants named Timothy A. Welch and Gary Christopher Cox? Charges: burglary, arson, larceny.

"The young men started to laugh and one of the young men put a card in the air that said, 'I am a member of the KKK.'"

And you haven't heard about it?

Mr. JUSTICE. I heard about the arrest of Klan members——

Mr. CONYERS. But this is not in your district?

Mr. JUSTICE. No, it's not in my district, no.

Mr. CONYERS. OK. Could you concern yourself with that, Mr. Justice, to the extent that you give me some information about it? I know it's not——

Mr. JUSTICE. I certainly will. I'd be glad to, Congressman.

Mr. CONYERS. I know it's not in your area. OK, I'd appreciate that.

Mr. MCCOLLUM. Mr. Conyers, I think your time is up, and I don't think he has more to offer, but thank you very much.

Mr. CONYERS. Well, thank you very much. Is there going to be a second round?

Mr. MCCOLLUM. I had not planned on. If there is reason for it——

Mr. CONYERS. Well, then may I get unanimous consent to proceed for 1 minute?

Mr. MCCOLLUM. For 1 minute? Certainly.
Mr. CONYERS. Thank you very much.
Mr. MCCOLLUM. Without objection.
Mr. CONYERS. Now, Mr. O'Malley, I'm delighted to welcome you here. I've done a few things in Chicago.
Tell me, sir, who is it that tells you that you have done such a superior job in your work that you were explaining to us in your opening comments?
Mr. O'MALLEY. Who is it that tells me that?
Mr. CONYERS. Yes.
Mr. O'MALLEY. Well, I was relying on the statistical conviction rates and the other performance factors in our office to contrast that with the need for having further federalization of crime.
Mr. CONYERS. Well, don't get me wrong. I mean, you maybe are doing a great job, and maybe if I knew what it was, I would be announcing it in conjunction with you, but——
Mr. O'MALLEY. I'll be sure and send you a full report of the performance of my office, in hopes that you'll do just that, sir. [Laughter.]
Mr. CONYERS. Well, I will be looking forward. That's exactly what I needed.
The problem, though, is that Chicago has some pretty heavy crime statistics, and it doesn't mean—you know, the fact that there's a lot of crime going on doesn't mean that law enforcement isn't doing a good job. But, I mean, for you to explain to us how great you are, based on your analysis of your work, is really confident. And now that you've opened the subject up, that I will now be edified as to what led you to announce those conclusions, we'll all be on the same page, and maybe——
Mr. O'MALLEY. But I'll be happy to talk——
Mr. CONYERS. Wait a minute. I haven't——
Mr. O'MALLEY. Oh, OK.
Mr. CONYERS. This hasn't—this isn't turned into a question yet.
Mr. O'MALLEY. Oh, OK.
Mr. BUYER. We're not sure what it is. [Laughter.]
Mr. CONYERS. Yes, yes, Mr. Buyer, thanks a lot.
Mr. BUYER. You're welcome.
Mr. CONYERS. But the whole point is that you want to—you don't want to federalize crime, but you want to put dangerous, youthful criminal offenders into Federal prisons; is that the gist of one of the parts of your comment?
Mr. O'MALLEY. No.
Mr. CONYERS. All right, would you explain it?
Mr. O'MALLEY. I didn't say I wanted to put youthful dangerous offenders into the Federal prisons, although, upon reflection, I may occasionally ask to do that. What I suggested is that I would like to put gang leaders, who have been convicted and continue to run gangs from the Illinois State prison system, into Federal prisons, so they'd be less able to continue to influence young people on the streets of Chicago and the suburbs——
Mr. CONYERS. Is it fair to infer that, if they're in State prisons, they can run their criminal activity from those——
Mr. O'MALLEY. It is——
Mr. CONYERS [continuing]. Places of incarceration?

Mr. O'MALLEY. It is unquestionably true, and we have specifically alleged that in a current prosecution, that certain individuals who we have alleged are gang leaders continue to run the operations and influence activities of the gang and are looked up to by youngsters, even though they've never met them, and that's a dangerous situation.

Mr. MCCOLLUM. Mr. Conyers, your 1 minute stretched into about another session of 5.

Mr. CONYERS. Thank you, Mr. O'Malley, and thank you, Mr. Chairman.

Mr. MCCOLLUM. Mr. Buyer, you're recognized for 5 minutes.

Mr. BUYER. Thank you, Mr. Chairman.

Just in response here, Attorney General Brady, you weren't specifically requested by the chairman to be here, were you——

Ms. BRADY. No, I was——

Mr. BUYER [continuing]. As a witness?

Ms. BRADY. No, I was requested to be here by the National Association of Attorneys General on their behalf.

Mr. BUYER. Yes, thank you. Thank you very much.

I applaud the chairman for holding this hearing. All of you seem to be somewhat very careful in your words, but, you know, it's unfortunate, candor can be a disgraced term in this town, and that's why words are held so close to the chest. But candor can also be very helpful. And you, for some reason, are hesitant, thinking that the candor is going to hurt your in some way.

What I ask for your candor to be helpful is that, if we have Federal agencies out there who are not operating the way they should be operating—one was the allocation by Mr. Justice that sometimes they cherry-pick. You used some words like "a lukewarm response at best." So I want you to get into a little more detail on that. And I also ask for the other two of you to make comments relative to that.

Two things I'm going to ask on really deal with drug convictions or drug cases and firearm cases and convictions. At the Federal level we have noticed a downward trend at the Department of Justice in our drug cases, almost a 25-percent reduction in drug cases at the Federal level over the last 3 years, 3½ years, and we also have almost a 15-percent reduction in firearms convictions, which concerns me.

Mr. O'Malley, when you said, I wish a lot of these gang members could be moved into Federal prisons, I'm thinking about Operation Triggerlock, as an example. When should the Federal Government come in and assume some jurisdiction? When, in fact, do you do referrals? Do you ask for referrals? They don't pick up the cases? Let me just throw those things out in general.

And the other is, have we won the war on drugs. And so my question also to you is, Have you seen an increase in your drug cases and firearm cases that counters what's happening at the Federal level?

So those are my opening questions to you, and, please, I'd appreciate your responses. And we'll go right down the line, beginning with Mr. Justice.

Mr. JUSTICE. OK, that sounds like a multiple choice question. Which one would you like for me to address first?

Mr. BUYER. Well, it's one, two, three. The one, two, three is: please explain to me your lukewarm response at best, and what the Federal agencies are and how can they be helpful? And if any of you have cases, let me know.

The other is on your referrals. Do you do referrals to the Feds, and are they responsive or not, or do they just come in and do their cherry-picking? And the last part is, Have you seen an increase in your drug cases and firearm cases or not? Those are the one, two, three——

Mr. JUSTICE. OK, the first part, Congressman, I can probably best explain by an example of actually two cases that occurred in Lancaster County, SC. I had a murder case. The murder case involved a large number of people from Charlotte, NC, who rented a hall literally just over the State line. You could see the sign from the hall. All the witnesses, or at least 90 percent of the witnesses, were from North Carolina. All the defendants were in North Carolina. One of the two victims, the murder victim, was from North Carolina.

The culprits crossed State lines with guns and then recrossed State lines with guns. So, obviously, there is a Federal interest, if they choose to pick it. The four-man detective division from that county did all they could, but simply didn't have the resources to track down leads up in North Carolina on an ongoing basis.

While that case is pending, I have another case in the same county where four young men robbed a convenience store, gang-raped the clerk, and are captured by the local detectives within an hour, confessed within two, are ID'ed by the victims by morning. That second case hits the headlines, and I get calls from the U.S. attorney's office and the Federal task force in Rock Hill wanting to adopt that case.

Mr. BUYER. Sure.

Mr. JUSTICE. I said, no, but I've got a case for you. [Laughter.]

I've got a case where I need your help. And, to this date, I've never gotten it, even though it's been promised. I think that probably illuminates what I was referring to in my prepared remarks in that regard.

Insofar as the drug cases, that has probably been the crown jewel of cooperation at the local level. The task forces do work well together. And one reason that the Federal prosecutions have probably gone down, we have through Federal funding, every county in my circuit has a Federal task force of additional officers who work drugs and are making more cases. So I think there is probably an offset of more State cases being made and fewer Federal, but, generally, at the local level, at the police force level, my guidance to my police: when you work a case jointly with the Federal, determine up front who's going to take the case. If they want to take it, that's fine with me. If you want to take it, that's fine with me. And it generally works very well at that level.

Mr. BUYER. Attorney General.

Ms. BRADY. I have a policy that whoever can hurt the offender the most should get jurisdiction over the case. We generally have a memorandum—a mutual understanding that that's the way it's supposed to work, and I don't have any real horror stories. I'm in

a dispute right now trying to get my U.S. attorney to prosecute something that I think we both should jointly prosecute.

My exposure to the Federal policies that restrict the conduct of law enforcement officials like FBI, ATF agents in their detection and discovery of criminal activity has been surprising because they're not actually allowed to do all they're legally permitted to do, under policies adopted by the departments.

I think that, to some extent, the nature—the numbers of drug cases are related to policies; the number of cases that are being made by the Federal agencies are related to policies. I find that at some of my local agencies; drug arrests are down, and I can directly relate it to policies.

And with regard to the need for candor, I, sir, am absolutely cognizant of that. I was asked to agree with a statement I found difficult and had no personal knowledge or ability to agree with, and so I deferred and deflected.

Mr. BUYER. That's fine.

Mr. O'Malley.

Mr. O'MALLEY. Sir, you gave an example, the Triggerlock. That's a good example of federalization that I think had very limited value to the American public. When Triggerlock was first announced several years ago or a few years ago, there was a big announcement in Chicago, a press conference: the Federal authorities are going to do Triggerlock. They're going to take guns. And my attitude that I agree with in general is, whoever can hurt the defendant the most should take the case.

As it happens, Federal sentencing laws generally are tougher than State sentencing laws, at least in Illinois. And given the volume of work I have to do, I open my doors and say: you can have anything you want. And I say: you can have every gun case that meets your criteria. And we would have Federal authorities come over every day and look through the hundreds of gun arrests that were made the preceding night, and the result, after a couple of years later: one case, maybe two, that was all.

I said you could have as many cases as you want, and under Triggerlock in Chicago there were few, very, very few cases out of the thousands and thousands of gun cases that we prosecute every year, and it was a classic example of raising the public's expectation that the Federal Government was going to come in and really do something about the gun problem. Reality is, given the volume of gun cases in a place like the city of Chicago, it would—just taking gun cases alone—would instantly overwhelm the entire Federal court system in Chicago.

So I don't mean to criticize the prosecutor's office for not taking them. The law was put on the books. The press asked me, "What do you think?" I said, "They can have them all—or as many as they want." And the result is they took very little, if any.

On the prisons that you asked about, my point on the prisons is not that I think the Federal Government ought to convict these gang leaders necessarily and then put them in Federal prison. I'd like to see a way to be able to use Federal prison space for gang leaders who have been convicted of State crimes.

And I'll go back again to the Gangster Disciple case, where the prison authorities estimate there are currently 6,000 members of a

particular gang. That's just one gang in the Illinois State prison system, virtually all of them put there by the Cook County State's Attorney's Office, which is one example of doing a good job, by the way. And if we could get them over there, they'd be less influential on the streets.

Mr. BUYER. All right, thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Mr. Buyer.

You're recognized, Mr. Scott, for 5 minutes.

And I'd like to ask Mr. Buyer, Would you be able to take the Chair for a while?

Mr. BUYER. Yes.

Mr. MCCOLLUM. Thank you.

Mr. Scott, you're recognized.

Mr. SCOTT. Thank you, Mr. Chairman.

Ms. Brady, I'd like to follow up on one of the questions that was asked. You indicated about these rumors. The rumors of duplication, has that been duplication of jurisdiction or duplication of actual actions?

Ms. BRADY. Actually, the rumors had to do with another matter, but I did mention in that comment that—he said, "So what you want is more money?" And I said, "No, but you could save yourself some money if you eliminated the duplication."

Some of the duplications include they perform some of the same testing. The Federal agencies perform some of the same testing. It would seem to me that, when you have fingerprints or DNA, there should be a place where that's done for the Federal agencies, and it should not be done at a lot of different places with the trained personnel duplicated through——

Mr. SCOTT. Do you have a DNA lab in Delaware?

Ms. BRADY. We are just now up and running. I think they're getting their certification now. And that will be a welcome relief because one of the problems with using the FBI laboratory—and they're not unfamiliar with this; we discuss it with them regularly—is the delay of our court cases by virtue of getting in line behind the large numbers of agencies that are in line to get their evidence tested. But, had it not been for the FBI in terms of development of that crime detection technique, we would be way behind where we are today.

Mr. SCOTT. Now we passed legislation a little while ago—I don't know what ever happened to it—to help you with DNA laboratories.

Ms. BRADY. Yes. My acting medical examiner tells me he's applied for Federal grant funds.

Mr. SCOTT. So you're using that legislation?

Ms. BRADY. I believe he is.

Mr. SCOTT. Mr. Justice or Mr. O'Malley, are you using that legislation?

Mr. JUSTICE. Our State law enforcement division located in Columbia has a DNA lab, and it's my understanding that part of the funding is coming from the Federal Government. So I assume that is the legislation you have reference to.

Mr. O'MALLEY. As I understand it, the crime bill did have a provision in it that provided some technical assistance to States that want to create DNA laboratories. I don't believe Illinois has taken

advantage of it yet. That just passed recently. We do have DNA laboratories in Illinois already; I'm sure we'll try to take advantage of whatever's available, but I doubt it's been implemented in that fashion this quickly.

Mr. SCOTT. OK. In terms of Federal jurisdiction, if a crime is not technically a Federal crime, can you get support from Federal agencies, if it is particularly complex?

Mr. O'MALLEY. I'll respond to that. Yes, definitely. There have been cases where—that have occurred, for example, in a small municipality that doesn't have a large police force, perhaps a very serious crime, and we will offer some assistance from the prosecutor's office, but it's primarily at the level of a police investigation. And in those situations, when there's been a request made to the Federal Government, be it the FBI or whatever, to come in and help, they've in my experience always been very helpful in that regard.

Mr. SCOTT. Now does it make more sense to bring in Federal agencies under that scenario rather than federalizing the crimes? I think somebody mentioned carjacking now is a Federal crime. Does it make more sense to bring in the Federal Government on a case-by-case basis on a complexity measure rather than federalizing the crimes?

Mr. O'MALLEY. I agree with that. It makes sense to me, and for the additional reason that then it is at the request of the local authorities, and they'll know when they need help and then they will ask for help. The other way around creates, again, this expectation that it's going to be turned over to the Feds, and that isn't really practically what can happen in a case like carjacking.

Mr. SCOTT. Is there any justification for federalizing juvenile crime?

Mr. O'MALLEY. I see virtually no justification for federalizing juvenile crime.

Ms. BRADY. And I might say that the difference—you're affecting a different agency. When you pass the law, unless you mandate that no Federal agency providing support in an investigative capacity to the States, agencies, is allowed to assist, if there's not a Federal law, you don't—you're only affecting the prosecution authority, the U.S. attorney, when you pass a law, because, as of right now, if we need evidence tested, for instance, by the FBI laboratory or by ATF, who does some testing for us for a State fire marshal's case or something, we—there is no Federal law question. They don't ask us, "Well, is this a violation of Federal law, so we can assist you?" They assist us when we need it.

Mr. SCOTT. Are you getting that kind of cooperation?

Ms. BRADY. Yes.

Mr. SCOTT. Mr. O'Malley, you mentioned 30,000 members of this gang that are up and operating, that's been in operation for some time. It seems to me that something—I think most people would think, if it's highly structured, something ought to be done. What tools do we need to deal with a gang of that magnitude?

Mr. O'MALLEY. Well, the law enforcement tools I believe are there. I'd rather see that we didn't have 30,000 active members, but the law enforcement response is there, and the example we gave of Federal/State cooperation and local cooperation in the most recent series of indictments is there. What we need, in addition, is

not to simply rely on law enforcement, be that Federal, State, or local, but prevention in getting a message to kids. This moves beyond the charter of a prosecutor into social issues, and crime prevention is something we need to support.

Mr. SCOTT. All right, could you repeat that for the ranking member; he might have missed that. [Laughter.]

I wouldn't want the chairman of the committee to have missed that little word of wisdom [referring to the fact that Mr. McCollum just walked into the hearing room].

Mr. O'MALLEY. Sure. What I said is that we have—apparently, they don't want to hear it. [Laughter.]

Mr. MCCOLLUM. I'm listening.

Mr. O'MALLEY. No, I'm sorry. I was asked what additional tools we need available to law enforcement to combat street gang problems. I said I think the law enforcement tools right now are there, and if we need more, we can go to the State legislature and get them. The efforts we put forward in the Gangster Disciple case of combining Federal, State, and local resources is a tremendous law enforcement response to a serious problem. What else can we do with it? We have to try and prevent young people from joining gangs, prevent young people from becoming addicted or buying drugs and using drugs, and reach that on the demand side, and provide a social structure so kids join something other than gangs.

The single biggest problem there is the breakdown of the family. This underscores perhaps the limits not only of the Federal Government, but of local government: what can we do to strengthen the family? They join gangs because they want to belong to something, and they don't feel they belong to their family. They don't have fathers, most of them. The vast majority of those 30,000 kids, they look up to the older gang member because they don't even know who their father is, and he certainly isn't around to provide the guidance to them.

Now what can the Government do about that at any level? I'm not sure I have the answer, but that—you asked the question: what else do we need in law enforcement? Law enforcement no matter what we do, is going to respond after the problems have occurred. So we go after drug dealers and murderers after they've already dealt drugs and committed murders. We need to continue to do that. We shouldn't stop doing the tough traditional law enforcement in order to go and prevent crime, but we need to try to prevent crime. The most significant way to prevent crime is to strengthen family.

Mr. MCCOLLUM. Thank you. Thank you, Mr. Scott.

And certainly I concur with what you're saying, Mr. O'Malley.

Mr. Coble, you're recognized for 5 minutes.

Mr. COBLE. I thank the chairman.

It's good to have you all with us, folks.

Mr. O'Malley, the gentleman from Michigan was talking to you about your performance. The late Dizzy Dean used to say, "If you can do it, it ain't bragging." I didn't regard your testimony, I guess—it's subject to interpretation, but I didn't regard your testimony as puffy and beating your own chest, but I guess that's subject to interpretation, as I say.

We live in a town up here where hundreds of people hourly puff their own wares. So I guess I'm immune to people boasting, if in fact you were.

It's good to have you all with us.

Folks, I have seen—I'm a sucker for cop shows. I don't watch much TV, but when I do, I watch a lot of cop shows. And many times, the general, rather than the exception, you'll see an FBI agent come onto the scene. "OK, I'm on the scene. Everybody blow away. I've got control here." And the Chicago policeman or the Charlotte or the Greensboro policeman is shoved aside.

As a practical matter, does it happen that way or is that the Hollywood twist? [Laughter.]

Mr. JUSTICE. It's very much a Hollywood twist.

Mr. COBLE. OK.

Mr. JUSTICE. In rural South Carolina we have two FBI agents who serve about a nine-county area who are there, literally there to help. It's only when we get above into the bureaucracy that sometimes our cries for help fall on deaf ears, but——

Mr. COBLE. Well, I'm always annoyed when I see that, and, Mr. Justice, I'm glad to hear that that is not the general—do you all agree with that, Ms. Brady and Mr. O'Malley?

Ms. BRADY. Yes.

Mr. O'MALLEY. As a former Chicago police officer, yes, I agree with that.

Mr. COBLE. OK, so that's additional credibility.

Now this question is one of repetition, but I want to do it for emphasis. The relationship between Federal law enforcement agencies and the DA's and the local law enforcement agencies, is it adequate as far as you all are concerned? And, secondly, do the Federal law enforcement agencies readily share relevant information with you or do they tend to guard their bets or hedge their bets?

Ms. BRADY. Once a case goes before the grand jury, we can be told absolutely nothing by—and that is not by the individual officer's decision, and I'm told it's by Federal statute, not policy, that there's a Federal requirement that, if a case is in front of the Federal grand jury, they can't tell anyone else, including other cops or law enforcement officers. That's been frustrating for us because we kind of—we have to, at a local level, give everything and get nothing, not be told about the process. They're technically not even supposed to tell us when the grand jury meets, and then we find out the status of the Federal prosecution at a later time, when they've completed their own investigation and complied with all the internal requirements that they must. I find the delay and the lack of information frustrating.

Mr. COBLE. Anybody want to add to that?

Mr. JUSTICE. I would add that the two-way street is better now than it has been in the past. Having been in office 18 years, I remember the days when communications with Federal law enforcement was: you tell us everything you know and I'll listen, but I'm not going to tell you anything. It's better than that now.

Mr. COBLE. Mr. Justice, let me ask you this: you noted in your testimony that the Department of Justice was the only Federal agency with which you have regular meetings. Have you ever con-

tacted or have you ever been contacted by the Treasury Department?

Mr. JUSTICE. Only on a case-by-case basis, never—I mean, I've had communications with them about an individual ongoing case from time to time, by ATF or by Secret Service, but never any kind of a long-playing relationship.

Mr. COBLE. Got you.

Thanks again, folks, for being with us. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Mr. Coble.

I believe we've got a second bell, and we probably should go take a recess. As soon as this vote is over, we'll resume the hearing. This subcommittee is in recess.

[Recess.]

Mr. MCCOLLUM. The Subcommittee on Crime will come to order.

When we recessed, Mr. Coble had just finished his questions, and we were ready with the first panel to resume. Ms. Lofgren is not here now. I think she would be next.

Mr. SCHUMER. Mr. Watt is, though.

Mr. MCCOLLUM. Mr. Watt, you're recognized for 5 minutes.

Mr. WATT. Thank you, Mr. Chairman.

I want to welcome the witnesses on this panel, and particularly Mr. Justice from my sister State of South Carolina, and I hope you have a good stay here.

I heard the members of our subcommittee chuckle when you talked about cherry-picking, but it seems to me that there were some interesting parallels between what you were saying, Mr. Justice, and what Mr. O'Malley was saying about federalizing carjacking, and his subsequent comments in response to a question about the Triggerlock laws.

I take it that, Mr. O'Malley, you think that we are probably overreacting to federalize a lot of offenses such as carjacking and some others possibly. Is that—do I read what you're saying correctly or am I misstating?

Mr. O'MALLEY. No, I think that's accurate. That's my view. The reality is that it raises expectations in the eyes of the public, and the resources simply aren't there—the court resources, the prosecution resources, and investigation resources.

Mr. WATT. So, in that sense, federalizing things like carjacking is basically public relations, and in a sense we're doing the same things as Members of Congress as the U.S. attorney's office is doing by cherry-picking the most popular and public relations-oriented things and choosing to be involved in those prosecutions. So if we set that example of "cherry-picking" at the legislative level, it kind of surprises me that we would then turn around and snicker when Mr. Justice talks about the U.S. attorneys basically doing the same thing that we are doing. They're just following our lead, I take it?

Mr. O'MALLEY. I'd be hard-pressed to disagree with that description of it.

Mr. WATT. Do you have any comments on that, Mr. Justice?

Mr. JUSTICE. The only thing I would add is the State legislatures are guilty of pretty much the same thing. The whole crime of carjacking, I've yet to figure out a scenario that was not a fit under robbery, armed robbery, or kidnapping—all of which in South Caro-

lina carry more time than the offense of carjacking. So I think it's a nationwide thing. This is a—it became a popular catch phrase, and everybody wanted to enact the law.

Mr. WATT. Ms. Brady, I'm sorry I missed your testimony. I came in after you had testified, but I'm told that you made some comments about transferring—and I guess you said it in response to a question, that you try to seek out the most aggressive kind of response to a criminal offense, and if that's a Federal offense, you try to seek that out. If it's at the State level, you try to seek that out. Is that the essence of——

Ms. BRADY. That's my policy: whoever can hurt—whichever agency can hurt the offender the most.

Mr. WATT. There have been rumors, as you say, that that kind of discretion and the exercise of that kind of discretion to seek out the most aggressive penalties has not necessarily been done solely to seek out the most aggressive penalties, but has tended to have a racially-disparate impact. In a lot of cases, particularly in drug cases, what we are finding is that black drug defendants or Hispanic drug defendants tend to be referred for the more aggressive Federal prosecution because—for whatever reason—and others who are charged with those offenses maybe don't tend to be—is my time up, Mr. Chairman or——

Mr. BARR [presiding]. It is, but, with unanimous consent, you're certainly, without objection, authorized to——

Mr. WATT. Did I ever have a green light or——

Mr. BARR. There was a green light there.

Mr. WATT. Oh, I'm sorry.

Mr. BARR. I do know that. But certainly finish your question.

Mr. WATT. I didn't realize I had taken anything close to five minutes. I'll try to wrap up, though.

Mr. SCHUMER. There was a green light about 20 minutes ago.

Mr. WATT. Twenty minutes ago, OK. [Laughter.]

Well, that just goes to show you, when you like to hear yourself talk—[Laughter.]

Mr. SCHUMER. Don't we all? [Laughter.]

Mr. WATT. I'm getting as bad as you all are. [Laughter.]

Mr. SCHUMER. You won't get there. [Laughter.]

Mr. WATT. I thought I was immune.

Mr. SCHUMER. You won't catch up to me; don't worry. [Laughter.]

Mr. WATT. Have you seen any—I guess the bottom line question is: have you seen any indications in any of the cases that you have either observed or been involved in that suggest that factors other than simply the most aggressive penalty are being considered in making the decisions about whether to prosecute in State court or prosecute in Federal court?

Ms. BRADY. No. The only factor I've seen that's been considered is money. When there is a possibility or an expectation by a local law enforcement agency, they may get more money back from what is seized by participating in a Federal prosecution. Rather than participating in my State law enforcement assistance fund, they will go federally. And I've kind of laid the rule down about that: that if it happens in the State, it comes to me first, and if there's a justification other than a purely financial one to go federally, we can.

I will say this: that there is no doubt that the numbers statistically show a disproportionate representation of minorities by criminal arrest data. However, I think the one thing that we must remember is the correlation, which is direct and directly correlates, and that is that the numbers of victims in crimes are largely identical in race and gender and often age to the offenders in personal violence crimes, and the communities that we are most trying to put money in to rebuild themselves are the communities that are disrupted and terrorized by the drug organizations. And we have them—we don't have what we call gangs; they call them "posses" in our State. The kids call themselves "posses." And they say they're kids, but they're in their midtwenties, a lot of them. And they are disrupting the very neighborhoods that, on the other hand, we're pouring money into to try and help them rebuild.

Mr. WATT. Well, I could pursue that, Mr. Chairman, but I see my time is up, and I appreciate the response and appreciate you all's candor on the issues. Thank you very much.

Mr. BARR. OK, thank you, Mr. Watt.

I appreciate all the panelists being here. My name is Bob Barr, and I'm sitting in for Chairman McCollum for a few moments here.

But, if I could ask a question, I'd appreciate each of you to respond briefly to it. I served for nearly 4 years as the U.S. attorney out of Atlanta, and that was one of 11 regional OCDETF, Organized Crime Drug Enforcement Task Force, core cities around the country. And during those 4 years and previous to that, and I hope subsequent to that, the OCDETF program has worked very well in terms of bringing together on a regular basis investigators and prosecutors from all levels of government trying to attack the problem of drug trafficking, money laundering, and the attending crimes associated with illicit drugs in our communities.

And I'd like to hear from each of you all—I've been out of that process now for about 5, 6 years—and to get just a thumbnail reaction from each of you as far as, How is the OCDETF program working, if you are in fact familiar with it and have worked it, how it is working currently.

And, Mr. O'Malley, if we could start with you, please?

Mr. O'MALLEY. In my opening testimony I referred to the Gangster Disciple case, which is an investigation that was conducted by local and State and Federal authorities, and we have cross-designated assistant State's attorneys to appear as special assistant U.S. attorneys to prosecute the cases. That is a great example of the kind of cooperative effort in an appropriate case, where we had as targets of the investigation numerous gang leaders who were in State prisons outside of my county. So it was a multijurisdictional problem, and we approached it in a multijurisdictional fashion. So that's the kind of activity, law enforcement activity, that I think should be continued. The federalization of other kinds of crimes I think is problematic, to put it mildly, and doesn't really have much effect on those kinds of crimes.

Mr. BARR. I agree. And I've read you all's testimony and came in just as, Mr. Justice, you were answering a question with regard to the carjacking statutes. And I'd agree with you all's perspective on the efforts to federalize crimes that sometimes perhaps don't need to be, but I appreciate that, Mr. O'Malley.

Attorney General Brady.

Ms. BRADY. I have no experience with the particular program. We're small in Delaware and we were not part of that project. We do have personal and close relationships with the Federal agents from the perspective agencies that are sent to Delaware. We work well together.

There is no structure by which we do that. And I don't know that a structure would be helpful or not. It probably would because the time period that the agents spend in our State is much shorter than the time period of the local law enforcement officials who spend 20 or 25 years with their various departments. I've been involved in the criminal justice system in Delaware since 1977. We have a long-term perspective, remember who did what, what areas were problems, whether they're better or worse, those kinds of things that aren't something that—the kind of information that the Federal authorities might not be privy to because of the short duration of their stay in our State.

Mr. BARR. OK, thank you.

And, Mr. Justice, from your standpoint, I presume you're somewhat familiar probably with the OCDETF program. How does it seem to be working?

Mr. JUSTICE. It's working well. In my particular jurisdiction, being rural South Carolina, our problem is unorganized crime and plenty of it, but there have been a number of cases, particularly in the narcotics area where crimes have—rings are organized, distribution outfits across State lines, county lines, and the participation and the cooperation between Federal and local in that area is better now than it has ever been in the 18 years I've been in the business.

Mr. BARR. OK, good. Well, I appreciate that, and, again, appreciate you all being here.

Mr. Schumer, you're recognized for 5 minutes.

Mr. SCHUMER. Thank you. Thank you, Mr. Chairman.

First, I'd ask unanimous consent that my opening statement be entered into the record.

Mr. BARR. Without objection.

[The prepared statement of Mr. Schumer follows:]

PREPARED STATEMENT OF HON. CHARLES E. SCHUMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

THANK YOU, MR. CHAIRMAN.

I CONGRATULATE YOU FOR HOLDING TODAY'S HEARING. FINDING THE BALANCE AMONG FEDERAL, STATE AND LOCAL CRIME-FIGHTING EFFORTS IS CRITICAL IN TODAY'S COMPLEX WORLD.

BUT IT IS IMPORTANT TO REMEMBER THAT THERE IS NO SIMPLE FORMULA FOR THE RIGHT BALANCE. WHAT WORKS IN CHICAGO MAY NOT WORK IN NEW YORK. AND WHAT WORKS IN EITHER CHICAGO OR NEW YORK MIGHT NOT WORK IN SMALLER TOWNS LIKE POTSDAM, NEW YORK, OR CHIPLEY, FLORIDA.

WE SHOULD BE SMART AND FLEXIBLE, NOT DOGMATIC ABOUT THESE ISSUES.

LET ME HIGHLIGHT A FEW MORE SPECIFIC POINTS.

FIRST, THERE IS MORE THAN ENOUGH CRIME TO GO AROUND IN AMERICA. THE QUESTION IS NOT WHETHER THE 50 STATES AND AMERICA'S CITIES AND RURAL COMMUNITIES

NEED FEDERAL LAW ENFORCEMENT HELP. THE QUESTION IS HOW — WHAT IS THE BEST WAY TO GIVE OUR STATES AND CITIES AND TOWNS THE MOST EFFECTIVE FEDERAL HELP POSSIBLE?

THAT ANSWER IS NOT THE SAME FOR ALL STATES OR FOR ALL COMMUNITIES.

FOR EXAMPLE, RIGHT NOW WE HAVE A HIGHLY SENSITIVE CONFRONTATION GOING ON OUT IN JORDAN, MONTANA, WITH A GANG OF RADICAL, EXTREMIST LAW-BREAKERS WHO HAVE DUBBED THEMSELVES THE "FREEMEN."

THE FACT IS THAT THE LOCAL LAW ENFORCEMENT OFFICIALS OUT THERE PLEADED FOR MONTHS FOR DIRECT FEDERAL HELP, EVEN THOUGH SOME OF THE OFFENSES THESE PEOPLE ARE CHARGED WITH ARE STRICTLY LOCAL.

THE PEOPLE OF MONTANA ARE GETTING THAT FEDERAL HELP TODAY.

BUT A SIMILAR SITUATION IN ANOTHER COMMUNITY WITH GREATER LOCAL LAW ENFORCEMENT RESOURCES MIGHT NOT REQUIRE THE SAME FEDERAL HELP. THE POLICE

DEPARTMENTS OF NEW YORK OR ORLANDO, FOR EXAMPLE, MIGHT BE ABLE TO HANDLE A SIMILAR PROBLEM ON THEIR OWN.

THE POINT IS THAT WE NEED TO BE FLEXIBLE AND MAKE SURE THAT REAL PEOPLE GET THE HELP THEY NEED.

SECOND, THERE IS NOTHING INHERENTLY "WRONG" WITH FEDERAL INVOLVEMENT IN FIGHTING VIOLENT CRIME. THE PEOPLE OF MY DISTRICT CERTAINLY DON'T THINK SO. THEY WANT HELP AND THEY DON'T CARE WHERE IT COMES FROM, SO LONG AS IT GETS THE JOB DONE EFFECTIVELY.

EVERYONE AGREES THAT THE FEDERAL GOVERNMENT MUST BE INVOLVED IN FIGHTING COMPLEX INTERSTATE CRIMINAL ACTIVITIES.

BUT WE SHOULD ALSO RECOGNIZE THAT INTERSTATE CRIMINAL ACTIVITY HAS MUSHROOMED, AND OLD BOUNDARIES HAVE BLURRED.

THIS IS NOT THE 19TH CENTURY. THE 21ST CENTURY IS HURTLING DOWN ON US. OUR SOCIETY CHANGES MORE -- AND MORE QUICKLY -- EVERY DAY. OUR WORLD IS

INCREASINGLY BASED ON TECHNOLOGIES AND THE MOVEMENT OF PEOPLE THAT KNOW NO BOUNDARIES.

CRIME AND CRIMINALS HAVE ALSO CHANGED. WHAT ONCE MAY HAVE BEEN A SIMPLE LOCAL "CON GAME" IS TODAY'S INTERSTATE TELEMARKETING FRAUD. WHAT MAY HAVE ONCE BEEN A SIMPLE LOCAL CAR THEFT RING TODAY HAS TENTACLES NOT ONLY ACROSS AMERICA, BUT ACROSS THE OCEANS INTO FOREIGN COUNTRIES. TODAY'S DRUG TRAFFICKERS, GUN RUNNERS, AND CRIMINAL GANGS ARE COMPLEX ENTERPRISES.

WE CANNOT BE BLIND TO THESE CHANGES.

THIRD, THERE IS NO TIDAL WAVE OF FEDERALIZATION. I KNOW SOME ARE CONCERNED ABOUT A WAVE OF "FEDERALIZING" LOCAL CRIMES. THERE IS NO SUCH WAVE. THE CONGRESS HAS NOT "FEDERALIZED" – OR EVEN PROPOSED TO FEDERALIZE — ANYTHING LIKE THE VAST BULK OF CRIMES THAT HAVE BEEN, ARE NOW, AND ALWAYS WILL BE MATTERS FOR STATE AND LOCAL PROSECUTION.

WHAT HAS HAPPENED IS THAT CONGRESS HAS

RESPONDED TO SPECIFIC CONCERNS WHEN THE AMERICAN PEOPLE HAVE COME TO US AND SAID, WE NEED HELP. WHERE CONGRESS HAS "FEDERALIZED" A CRIME, IT IS ALMOST ALWAYS AIMED AT MAKING IT POSSIBLE FOR FEDERAL LAW ENFORCEMENT OFFICIALS TO BE INVOLVED IN EXTRAORDINARY PROBLEMS.

YES, THOSE RELATIVELY FEW INSTANCES CAUSE SOME LOCAL OFFICIALS TO FEEL PROTECTIVE ABOUT THEIR "TURF." BUT FEW OF THOSE OFFICIALS HESITATE TO ASK FOR FEDERAL HELP WHEN THEY NEED IT.

FINALLY, STATE AND LOCAL OFFICIALS HAVE AS MUCH RESPONSIBILITY TO MAKE OUR FEDERAL SYSTEM WORK AS FEDERAL OFFICIALS. THE QUESTION OF STATE-FEDERAL RELATIONS IS NOT A ONE WAY STREET. THERE ARE FRICTIONS BETWEEN ALL LEVELS OF GOVERNMENT, EVEN IN THINGS THAT HAVE NOTHING TO DO WITH CRIME. CITIES AND COUNTIES HAVE STRESSES OVER ROADS, BOTH WRESTLE WITH STATE GOVERNMENTS, AND STATE GOVERNMENTS GRAPPLE WITH WASHINGTON.

THAT FRICTION IS INEVITABLE IN HOW OUR SYSTEM WORKS. BUT THERE ARE NO "GOOD GUYS" AND "BAD GUYS" AMONG THE GOVERNMENT LEVELS. EACH LEVEL HAS A PART OF THE JOB TO DO.

THE CHALLENGE FOR ALL OF US IS TO APPROACH OUR COMMON PROBLEM – HOW BEST TO FIGHT CRIME AT ALL LEVELS – WITH GOOD WILL AND A POSITIVE ATTITUDE AIMED AT GETTING THE JOB DONE.

FIGHTING CRIME IS NOT EASY. IT IS TOUGH, GRITTY, HARD WORK. IT MUST BE DONE DAY IN AND DAY OUT.

I HOPE WE CAN ALL LEARN FROM EACH OTHER TODAY ABOUT HOW BEST TO DO THAT HARD WORK.

THANK YOU, MR. CHAIRMAN.

Mr. SCHUMER. First, I guess I come with a somewhat different perspective. I come from an area that has significant amounts of crimes in the southern parts of Brooklyn and Queens, and my constituents don't ask what level of government is solving the problem. They just want the problem solved.

I have been one of the advocates of increasing federalization of certain things, for the very reason that while I have a great deal of respect for local law enforcement and have been a supporter, and will continue to be, of local law enforcement, we still have a crime rate that's much too high. And if the Federal Government, on either the punishment side or the prevention side, can help, we should be there to help. And, you know, my view is the egos on both sides should be tamped down, Federal and local, so that we can make the streets safer, make the communities safer.

So I guess, you know—and let me give you a statistic. I think there were 14 million violent crimes committed in the United States last year, in 1995. There were 45,000 total Federal indictments. That's not just of violent crime; that's of white-collar crime and some of the other types of crime as well. So the Federal Government, even if every one of those indictments were for something that might be a State or local crime, is giving plenty—I mean, there's plenty left over for everybody to do.

I guess my questions are: we've heard about carjacking mentioned. What are the other places where you think that federalization has gone too far?

Mr. JUSTICE. Congressman, if I may, in the Federal law that was apparently struck down by *Lopez*, having to do with guns in schools, it is to me an unnecessary federalization. In South Carolina a child, a 17-, 18-year-old takes a gun to school; I can charge him with two offenses of which I can convict him and put him in jail for up to 10 years, if necessary, or put him in a youthful offender program, which I don't believe the Federal Government has, which may be a better——

Mr. SCHUMER. Right.

Mr. JUSTICE [continuing]. Solution for it.

Mr. SCHUMER. Has the Federal Government on that issue ever come in and done an indictment where—I mean, in my judgment, that should be a local crime, but what about in the areas—I mean, when we federalize things, which we do for a variety of reasons, but when we do, it is not to say that the Federal Government should come in and handle every crime in that area, whether it be, you know, local school laws or what. It's in places where either local law enforcement in some cases is unwilling—there might be an ideological, some way or other, aversion to that—or unable. What's going on with the Freemen in Montana is just the opposite situation, where local law enforcement's begging the Federal Government to come in because they don't have the resources to deal with these people here.

So let me ask you, Has it ever been in South Carolina, which is your jurisdiction, that the Feds have come in and done an indictment on this one?

Mr. JUSTICE. I know of one instance, Congressman, and it's a typical cherry-picker. In Columbia, SC, a 17-year-old carried a gun to school, shot and killed another student, was charged and in-

dicted for murder in State court that carries life, and the U.S. attorney came in behind that——

Mr. SCHUMER. I agree with you——

Mr. JUSTICE [continuing]. And charged him with having a gun in school.

Mr. SCHUMER [continuing]. That is not what we're intending to do with federalization. Was there any recourse to the Justice Department on that?

Mr. JUSTICE. No, he was actually convicted on the gun charge first and then later stood trial for murder.

Mr. SCHUMER. I see, but, I mean, when the indictment occurred, or when you heard it might be coming down, if you heard ahead, would you be able—is there somebody in the Justice Department you would be able to call and say—because I know that Attorney General Reno, from the day I met her, before she was actually appointed Attorney General, being a local prosecutor herself, hated that kind of stuff, and that bugs me, too: some U.S. attorneys trying to get the glory when the State charge is the more relevant charge.

Mr. JUSTICE. Had it been my jurisdiction, I would have called Attorney General Reno, and I'm sure I would have gotten recourse. It was outside my jurisdiction, so I don't know why——

Mr. SCHUMER. Right, but is there, if it occurred in your jurisdiction, would there be a way for you to address that kind of situation?

Mr. JUSTICE. Certainly, certainly.

Mr. SCHUMER. There would? How about you; do you feel the same way, Attorney General Brady?

Ms. BRADY. Yes, there's a policy at the U.S. Department of Justice regarding Federal intervention in a case that's already being pursued on the same facts upon which the Federal prosecution would be based.

Mr. SCHUMER. Right. And how about you, Mr. O'Malley?

Mr. O'MALLEY. Yes, it's a similar situation, sir.

Mr. SCHUMER. OK. So you all have recourse in that kind of egregious situation. I guess you would all admit that in certain really important cases that it would be better to prosecute under Federal law than under State law. At least in New York State the Federal law is easier to win a conviction on than State law.

Mr. JUSTICE. I would agree there are such cases——

Mr. SCHUMER. I know that's true in New York; there's far more—so there are some instances where you folks should defer to the Feds, if you want to——

Mr. JUSTICE. Certainly.

Mr. SCHUMER. Is that correct, too? Do you agree with that, Attorney General Brady?

Ms. BRADY. I agree that we should make the decision about when we need the assistance of Federal law enforcement, and I don't agree that things are left over from the Federal prosecution for the States, but rather that the States should only give to the Federal authorities that which we choose.

Mr. SCHUMER. That's what you choose?

Ms. BRADY. That's correct.

Mr. SCHUMER. OK. Well, I would say that overstates it as much on the one side as the Feds, the U.S. attorney doing what he said on the other side. I think there is a middle ground here that could work.

Mr. O'MALLEY. My response to your opening position of there's a serious crime problem, and if the Federal Government can help, it should help, it's impossible to argue with that, but I think what we're trying to convey to you from a local perspective is that in certain areas the Federal Government cannot effectively help, and we're trying to tell you in others where the Federal Government could help. And to raise expectations with the Guns in School Act, federalizing juvenile crime, carjacking, even the Violence Against Women Act, that raises the public's expectations, and the numbers that you quoted demonstrate conclusively that the expectations are raised way out of proportion to what's really going to be able to be accomplished by the Federal Government.

Mr. SCHUMER. Can I ask one other question, with your indulgence?

Mr. BARR. Without objection.

Mr. SCHUMER. The crime bill which we passed in 1994 was basically—and I wrote most of it—an act aiding local law enforcement. Most of it were programs, both on the punishment side and the prevention side, which would give local law enforcement resources that they wanted. Now in a block grant, which you might prefer because you could spend the money on whatever you wanted, although you'd have to go through the Governor, and God knows how much of it you'd get, but the focus of the 1994 crime bill was in aiding local law enforcement, but giving some Federal dollars for that. What is your—what was your opinion of that?

Mr. O'MALLEY. It was a big problem to the National District Attorneys Association because—let me preface it by saying you're correct, I'd prefer the block grant proposal. I don't think that, with all due respect, Congress ought to determine how many police officers a given municipality should have. That should be determined by that municipality, not by Congress. So, instead of saying we're going to restrict the money to hiring police officers, some may determine in the community they don't want to hire more police officers; instead, they want to do something else to prevent crime.

But the other specific problem to the National District Attorneys Association is, once there's 100,000 new police officers on the street, there was inadequate allocation of resources to local prosecuting offices to deal with the additional arrests that might be made.

Mr. SCHUMER. Well, there were the Byrne grants which were increased rather significantly.

Mr. O'MALLEY. The Byrne grants we support because those come in the form of block grants. And I happen to sit on the State agency in Illinois that determines——

Mr. SCHUMER. Well, that was in the crime bill. I think it was—I don't know how much, a huge increase in Byrne grant money.

Mr. O'MALLEY. Right, and initially the Byrne grant money was going to be depleted significantly. So we lobbied it and we got some points across, but the bottom line being, for Congress to determine

how many police officers a given municipality should have, I disagree with that.

Mr. SCHUMER. Can I tell you something, Mr. O'Malley? I've talked to scores of prosecutors throughout the country who believe, if you gave the block grant to the Governor, that the local prosecutorial authorities would see virtually nothing of it.

Mr. JUSTICE. Congressman, if I could respond also, the National District Attorneys Association, despite some misgivings and reservations, did support the 1994 crime bill——

Mr. SCHUMER. I know you did.

Mr. JUSTICE [continuing]. And came to Washington and lobbied in its behalf——

Mr. SCHUMER. Right.

Mr. JUSTICE [continuing]. From the White House to the——

Mr. SCHUMER. See, what I object to in the block grant is the block grant was so broadly created—and I'm taking up too much time here—you'll end up with a LEAA. And it was—you know, LEAA allowed politicians, frankly, not professional law enforcement people, to waste so much of this money. So I'd rather say: here's money for cops; here's money for prosecutors; here's money for prevention; here's money for prisons. You want to use it within these guidelines, fine. No one's forcing you to take it. But I'll be darned if—if we're just going to give you a big pot of money, you the State, then let the State be the taxing authority for it because every program where one entity taxes and the other spends is a formula for waste unless there are guidelines attached to it.

Mr. JUSTICE. Well, I would definitely agree with that. Cut the Federal tax rate and let the State decide how they're going to tax. That's a good idea.

Ms. BRADY. There's good sense in it.

Mr. BARR. If I could, sir, we're——

Mr. SCHUMER. I'm over my time and I would yield——

Mr. BARR. We can have a little bit more time perhaps later, and I say that even though I'm agreeing with what the witnesses are saying, and I would urge the witnesses and their colleagues to look at the appropriations bill that has already been signed into the law that does provide grants directly to and for local law enforcement entities.

Ms. Sheila Jackson Lee, the gentlelady from Texas, is recognized for 5 minutes.

Ms. JACKSON LEE. Thank you very much. I would ask the chairman to submit my remarks in total to the record, my opening statement.

Mr. BARR. Without objection, so ordered.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF HON. SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Good morning, I would like to thank Chairman McCollum for holding this hearing so that we can obtain state and local law enforcement's perspective of federal law enforcement efforts. I am a strong supporter of the many hardworking and dedicated state and local law enforcement officers, and I would like to thank all of the witnesses for coming to testify before this subcommittee today. I look forward to hearing their testimony. I believe that the current debate about the best way to coordinate federal, state, and local law enforcement efforts is vitally important to the safety of Americans across the country. I do believe that one of the key aspects of

working with local officials is providing real prevention dollars to prevent crime against our youth.

Partnerships among federal, state and local police forces have proven to be effective. The Community Oriented Policing Services (COPS) Program provides for 100,000 new community-oriented police at the state and local levels through grants for officer hiring, equipment, technology, and technical assistance. I know that this national community policing program is working, because the COPS program has placed more than 529 officers on the streets of my congressional district in Houston, Texas. The COPS program has played an integral part in reclaiming our neighborhoods. Programs like D.A.R.E. and Drug Free Schools along with crime prevention recreational programs have been vital in helping youth stay away from criminal activities.

The Executive Working Group on Federal, State and Local Prosecutorial Relations is another effective program, which provides local and state law enforcement with essential access and communication with senior Department of Justice officials.

Another successful example of federal partnership with state and local law enforcement is the Anti-Violent Crime Initiative. This program requires every U.S. Attorney to work with federal, state and local law enforcement agencies in a collaborative manner to develop and implement strategies to combat the most serious violent crimes in each District.

I am concerned when we discuss "the nature, extent and proliferation of federal law enforcement," as today's hearing is entitled. I trust that we are not motivated to cut funding for federal law enforcement or to approach crime prevention as only a state or local matter.

There are many reasons to maintain and strengthen federal law enforcement efforts, if we are truly concerned about the safety of American families. As a former Houston City Council Member, I know first hand about the commitment of local police officers to protect and serve the community. I applaud the efforts of our police officers who place their lives on the line every day for all of us. At the same time, in recognition of the turmoil of the Civil Rights Movement, I believe that we, at the federal level, should be ever-vigilant and ever-watchful about the national problem of crime and the equitable treatment of victims and perpetrators.

I look forward to hearing testimony from the witnesses today about ways to better coordinate federal, state and local law enforcement efforts. State and local police departments should be helped and not hindered in their mission to protect our streets, schools, homes, and businesses. I support efforts to assist state and local law enforcement in accessing information about criminals and criminal activity. However, I also believe the federal government can be an effective partner in crime prevention and enforcement.

I hope that we do not let our guard down concerning crime prevention and crime reduction. We should not necessarily focus on federal law enforcement as the problem. Instead, I would argue that we should focus on gun control and maintaining adequate resources and manpower for crime prevention as well as for investigating crimes, capturing perpetrators, and prosecuting the guilty to the fullest extent of the law. Thank you.

Ms. JACKSON LEE. I appreciate the presence of the witnesses, and due to my responsibilities on the House floor this morning, I did not hear your testimony, but I have been privileged to review some of your statements and have heard some of the questions being posed.

I, frankly, believe that we can maybe have our cake and eat it, too, to a certain extent, and that is to forge an effective partnership between the Federal Government and the local governments, be they municipal or State, and effectively work together to prevent crime and to enforce the laws of the land. I know that well, having come from a local government position as a member of the city council of the city of Houston and recognizing the value of Federal input on some of the responsibilities that we had, particularly more police on the beat; the community-oriented policing focus, which I know that many local institutions took up heartily; others wished they had. So I do think that there is a role that we all can play.

Mr. O'Malley, I am interested in your perspective on the balancing of dollars between prevention and enforcement, not to the

elimination of either, but where do you think, if I might ask, we get the biggest bang for the buck? How do you utilize prevention dollars?

Mr. O'MALLEY. Well, the vast majority of my budget is, and I think would always be, spent on enforcement because we have hundreds of police departments bringing us crimes; we have to prosecute them. And law enforcement is, despite a lot of good intentions and efforts, always going to be—the majority of the money and resources will be spent in a reactive fashion.

However, in the State attorney's office of Cook County we have a number of prevention programs, diversion programs taking juvenile offenders and diverting them out of the criminal justice system, so they don't get criminal records that will affect them in the future. We join with a number of other efforts to try to prevent crime.

Where to draw the line and how to divide the dollars between prevention and enforcement is, obviously, the key question. I sometimes analogize my job as sort of being like a fire chief who shows up at the site of a burning building, and the building's on fire and somebody wants to just sit down and discuss the introduction of fire-retardant materials to the building code. In the meantime, we have got to start pouring water on that burning building.

And so I don't think you can ever take money away from enforcement and move it into prevention. We're going to have to realize that crime should be the single highest priority of government at every level, and I wouldn't take away money from enforcement to prevent crime. I'd look elsewhere for it, because we can't stop enforcing laws.

Certainly one significant proven way to prevent crime is to keep criminals in prison. I mean, the average criminal who goes out and commits a robbery of a convenience store doesn't do it once; they do it numerous times before they get caught. And there are studies that show that the cost of keeping someone in prison, for example, in my State is somewhere between $16,000 and $18,000 a year, but the cost of leaving them out of prison is enormous. Studies done by the Justice Department a few years ago pegged that in the area of $170,000. Other studies have pegged it at even higher, because of the societal costs that the criminal incurs against us when he's out there.

Ms. JACKSON LEE. Well, it seems that we're all facing a dilemma. I mean, the State that I come from, that's a very low number, and you all are remarkable. Maybe they were in tents or something. And I don't have any preference for how prisoners are housed, but I've heard numbers as high as $60,000, $70,000.

And I think you're right, the question has to become: when do you begin to stop just looking on the—placing on the landscape prison buildings all over? When do you begin to halt and look at how prevention can, in fact, be effective? And I think the most certainly worthy people of being engaged in this would be both law enforcement officers who are, in fact, police officers and then those who are the law enforcers in terms of our attorney generals and other district attorneys across the country.

So I think we have a dilemma that raises my concern that we're so busily focused on the enforcement end and spending a lot of

money there, and not gaining anything, other than, of course, certainly wanting to make sure that our communities are safe and wanting to make sure you put the fire out of that burning building, but all you're doing is the cycle just keeps going on and on and on. I don't think you'll ever get to the point when you'll have a situation where you won't have to let a criminal out unless they were on death row, and, of course, got the death penalty, and it was implemented.

Let me raise another question with all of you. I passed a gun safety and responsibility ordinance on the city council that had to do with prohibiting or at least stopping the tide of guns getting into the hands of children by involving parents, to the extent that they would have a penalty of such for the reckless handling of such. That ordinance, simple ordinance, which has been documented, has decreased the number of accidental shootings amongst our community and—if the chairman would indulge me to finish the question, then I could allow the three panelists to answer—brought a lot of ire, if you will, from the National Rifle Association, which tends to have a great deal of impact on local jurisdictions, whether it's the county government, city government, or our State legislators.

So my question to you would be: have you been able to stand up to the National Rife Association when there has been need? And when I say "you," in terms of your testimony to support legislation, if there have been members on your State legislatures that would offer gun responsibility or gun control legislation that would keep guns out of the hands of some of the posses or gangs. I mean, where does that fall, or have you been dominated by organizations such as the NRA, who are particularly powerful on the local level?

Mr. O'MALLEY. There was a similar——

Ms. JACKSON LEE. And I'd appreciate an answer from all of those who are here.

Mr. O'MALLEY. A statute was introduced in the Illinois Legislature that did effectively the same thing, and it was designed for the same purpose. It has been introduced several times. I strongly supported it. The local chapters of the National Rifle Association were the most vocal opponents of it, and it failed several times, and I don't believe it ever passed. So they were able to block what I thought was just such common-sense legislation to prevent guns from falling into the hands of children. But I know they blocked it several times; I don't believe it ever passed.

Ms. JACKSON LEE. Thank you.

Ms. BRADY. There's been no activity by the NRA in my State with regard to any such legislation, because I don't think—none's been proposed, that would any way suggest they support guns in the hands of children. In fact, the comments that have been made by members of the NRA to me in my State would largely support that they do not want children without supervision to have firearms in their possession.

Ms. JACKSON LEE. Would they allow legislation to come forth that would provide penalties——

Ms. BRADY. There's been nothing——

Ms. JACKSON LEE [continuing]. For such?

Ms. BRADY. There's been nothing proposed that I'm aware of in my State——

Ms. JACKSON LEE. OK, and they haven't brought it forward?

Ms. BRADY [continuing]. But that's not been an issue.

Ms. JACKSON LEE. OK, thank you.

Mr. Justice?

Mr. JUSTICE. Congresswoman, I have no problem standing up to the NRA, neither does the National District Attorneys Association, because, as I stated earlier, we supported the 1994 crime bill which, as everyone here knows, was largely fought by the NRA. Unfortunately, the trend that I see across the country, including South Carolina this week, I think North Carolina a year ago, is to license more people to carry concealed weapons, which I think from a law enforcement perspective is bad law, but the train is on the track in a lot of States and there's apparently little we can do with our State legislators to slow it down.

Ms. JACKSON LEE. Well, I thank you very much. Mr. Chairman, I thank you.

And I think their concluding responses indicated that we can effectuate a good partnership listening to you. And, Mr. Justice, I want to join you and find some way that we can help you on the Federal level about all these concealed weapons bills. I think they're horrific and do nothing for crime prevention.

I yield back, Mr. Chairman. Thank you.

Mr. BARR. I'd like to, again, thank the members of the panel for being here, for submitting their comments, for submitting themselves to questions, to let us benefit from your expertise and experience. We deeply appreciate it. And this panel is excused.

Mr. O'MALLEY. Thank you very much, Congressman.

Ms. BRADY. Thank you very much.

Mr. BARR. Thank you.

If we could ask our second very distinguished panel to come forward, and while their nameplates are being put out and while they are finding their seats, I'd like to introduce each one of them to the subcommittee and to the audience.

We have with us—we'll get them in the right order here—Mr. Terrance Gainer, the director of the Illinois State Police and also a member of the very distinguished International Association of Chiefs of Police.

Mr. Gainer, we're very happy and honored to have you with us here today.

Mr. GAINER. Thank you.

Mr. BARR. We also have on the second panel Mr. Johnny Hughes, the congressional affairs chairman for the National Troopers Coalition.

Mr. Hughes, we're very happy to have you here today and honored to have you representing the troopers of America.

Mr. HUGHES. Thank you.

Mr. BARR. We also have with us Mr. Gilbert Gallegos, president of the Fraternal Order of Police, representing many thousands of police officers, the thin blue line, as it were, across this country, and we're very honored to have you here today representing that fine organization.

Mr. GALLEGOS. Thank you, Mr. Chairman.

Mr. BARR. And, finally, we have with us in this distinguished panel Mr. Charles Meeks, the executive director of the National

Sheriffs' Association, which is active, of course, in every community in America with the sheriffs, who daily protect our courts, our court system, our personnel, and perform a myriad of other duties in behalf of the citizens of this country and our communities, in behalf of law enforcement.

Mr. Meeks, we're very honored and happy to have you with us here today.

Mr. MEEKS. Thank you, sir.

Mr. BARR. If I could ask each member of the panel, if they so choose, to take 5 minutes to provide an opening statement—if any of the members of this panel have written statements, they can be submitted for the record and will be printed in their entirety in the record. And then after we have each member of the panel provide their introductory remarks, we will submit the members of the panel to questions by the members of the subcommittee.

If we could, then, Mr. Gainer, starting with you, please.

STATEMENT OF TERRANCE W. GAINER, DIRECTOR, ILLINOIS STATE POLICE, ON BEHALF OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Mr. GAINER. Thanks, Mr. Chairman. I appreciate the opportunity. I do have written testimony, which I have submitted, and I was just going to hit a couple of highlights, and then I'd like to address some of the issues that were raised earlier.

By way of just a brief introduction, I've spent 28 years in law enforcement on the local, State, and Federal level. I began my professional career in Chicago, and my first assignment was the 1968 Democratic Convention, and I spent the next 20 years in Chicago in some variety of positions, patrol, homicide, and I went to law school at night and became the chief legal officer.

I left Illinois in 1989 and spent 2 years in the Federal Government as a special assistant to Secretary Skinner. I was responsible for drug policy enforcement in the U.S. Department of Transportation. I've been the director of the Illinois State Police for the past 5 years and some 2 months, and I spent about a year as the deputy inspector general for the State of Illinois.

Very quickly, the Illinois State Police is one of—you've heard the term before—a full-service law enforcement agencies, meaning that we don't do just highway patrol. There are some 3,400 of us involved in not only the traffic safety, but narcotics enforcement, weapons, police training, and forensic services. We provide all that for the State.

I'm happy to be here on behalf of the International Association of Chiefs of Police because police executives across the country are very eager to share their thoughts about the relationship between the Federal, State, and local law enforcement agencies.

Let me quickly say for the record, the Federal, State, and local law enforcement agencies working together is good, due in large measure, I think, to the vision and understanding of such people as DEA Administrator Tom Constantine, who came from the New York State Police, and FBI Director, Louis Freeh. Attorney General Janet Reno, COPS Director Joe Brann, ATF John Magaw, and many other Federal administrators have roots in State and local law enforcement, and I think they bring a good perspective to their

Federal positions. Bob Langston of the Park Service has been very helpful to many of the chiefs around the country.

The IACP, to get to the quick, does not believe the criminal justice community nor the public in general would be well served by either a megapolice department nor necessarily the merger of the Bureau of Alcohol, Tobacco and Firearms into the Federal Bureau of Investigation. I thought I'd get to the quick because it seems like that's the area that we seem to want to focus on.

I might mention that there are three particular areas that the chiefs asked me to discuss that had to do with training, technology, and task forces for the working police officers. The Federal Law Enforcement Training Center in Glynco, the FBI's National Executive Institute, their National Academy, as I mentioned, the Park Service have been very instrumental in developing State and local administrators. They have good training programs, and I would encourage you to keep those.

Many State and major city police departments also excel in training in specific areas: auto theft, crime trend prediction, DNA analysis, and domestic violence. Law enforcement nationwide would benefit from a development of a best-practice manual containing model programs in these and other diverse areas.

In the area of technology, the future of policing, like the future of commerce worldwide, is inextricably tied to our ability to move forward technologically in a comprehensive, rapid fashion. We are encouraged by the recent advancements made by the committee pursuing NCIC 2000. This project will expand police data bases to include more specific information about crimes, images of drivers and wanted persons, probation and parole information.

In Illinois, for instance, we strongly support NCIC 2000, and one of the ways that we develop relationships with our Federal allies, we have detailed two of our technicians to work with the FBI and are detailed to Washington to help develop the NCIC 2000 program from a local perspective.

Illinois is encouraged by other shared technology. We hope to become a volunteer State this fall to send fingerprint records electronically to the FBI, and it's very important, as, again, I heard an awful lot of testimony this morning about the need of cooperation and information-sharing, and many of the chiefs have indicated through the International Association of Chiefs of Police that whole information-sharing, the fingerprint technology, NIBRS, the National Incident-Based Reporting System, is very important to us and we do need the Federal help and direction in doing that.

Currently, as you may know, the NIBRS information, that National Incident-Based Reporting, is primarily statistical. The chiefs would prefer a real-time system which would complement the significant strides being made at local and State intelligence-gathering, so we can have tactical approaches to the way we ought to solve our crime.

Federal and State cooperation has also increased with the Department of Defense in regard to drug interdiction, but more needs to be done. For example, through defense contracts, new nonlethal technologies, such as sticky glue, strobe lights, flashbang devices, have been developed as byproducts of defense research. Federal,

State, and local police should be allowed access to that technology for tactical police operations.

I know it was mentioned earlier, the DNA movement in the forensic area. We need to build fast-moving strategy for the future direction of our lab systems, particularly in emerging technologies such as DNA and firearms analysis. We must guard against separate and redundant systems. For instance, in Chicago we have struck a partnership to build a lab facility with the University of Illinois that will accommodate the Chicago Police Department, local law enforcement, Cook County government, and the State police in one lab system, and we're working closely with the FBI to develop the DNA protocol that will go along with that.

And as an ancillary, where a problem came up—that red light goes on awful quick—where a problem came up, the ATF——

Mr. BARR. That's OK. That's more for our benefit than yours. We need it more than you all do.

Mr. GAINER. The ATF had suggested a firearms identification program, as did the FBI, and it was really forcing the locals to decide which one of those systems they needed to buy into. One system would analyze fired bullets; another would analyze fired cartridge cases. The International Association of Chiefs of Police went to the Federal Government, both the Treasury Department and the Justice Department, and asked them to help develop one program where we could put our time and energy. And those two large agencies came together, and we are now developing with them one program so that the ATF and the FBI are not in competition with each other. So it's a way of showing that communication can work things out.

The FBI has taken important steps in supporting the standardization of test protocols for the CODIS system. That's the Combined DNA Index System, a very important step in law enforcement, probably the next best thing we're doing outside of fingerprints and firearms identification. We're working very closely with them.

We're involved in a series of joint operations, and there is a lot of competition for the Federal agencies to get local officers. So, for instance, in Illinois we see that we are working two different task forces with the FBI. We're working several with the DEA and the HIDTA. We are working with Customs on a task force, with the U.S. Postal Department, with ATF, and all those bring a lot of different Federal assets to our advantage. And we're pleased with those, but it also is tough to keep sending people to so many different areas when sometimes they do overlap.

I would like to—one other item, from a public safety perspective, any testimony on this topic would be incomplete without some Federal mention of Federal involvement in traffic safety initiatives. Clearly, the Federal Highway Administration and the National Highway Traffic Administration have contributed greatly to shared understanding of the cost of human suffering resulting from vehicular crashes. With so much emphasis on violent crime, we shouldn't lose sight that more lives are lost and more people are injured in crashes on city streets, county roads, and interstates than in any other way. Traffic safety, including the need for increased seatbelt laws, should remain high priorities in policy-set-

ting agendas that are funded and appropriated by the Federal Government.

And just a couple of quick highlights on things that were mentioned earlier: OCDETF, Congressman, you mentioned. From a State perspective, we have three different districts of Federal U.S. attorneys. We work very, very closely with them, and there are some very productive OCDETF task forces. And so the work that you and your colleagues began years ago is continuing.

The Treasury Department works very regularly with the International Association of Chiefs of Police. We're very comfortable with the way they're developing, both in Customs and ATF. And on a local level, we work very closely with those organizations.

One Congressman mentioned the problem with LEAA. I should mention that I think most police chiefs and police officers were very satisfied with the way some of the directions of LEAA went. It was probably the single largest tool that educated most of the officers who now sit in various ranks throughout the Department, and I'm happy to say it helped me get my masters degree and law degree. So I'm a particular believer in the LEAA.

On the prevention side, Congressman Lee brought up the issue about prevention, and I would echo, I believe, what State's Attorney O'Malley said: we cannot divert any money from our enforcement efforts, but more time, energy, and philosophy has to be put into the prevention side. And I know that's not an easy task that we give you to figure out how to do that, but keep the focus on the enforcement and figure out also what we need to do with the prevention. And the law enforcement community is acutely aware of that, and that's been the direction of our community policing efforts and policing for results, and problem-solving has gone that way.

From a cooperative point of view, there was mention made this morning about when the Federal agencies get involved in cases and they go to the grand juries, that we no longer can be involved. We haven't found that to be the case in our experience. There are Federal rules, either 5(e) or 6(e), which would permit local agencies to stay involved in those cases, and I can say we're working cases in northern and southern and central Illinois jurisdictions where we're working side by side with Customs and Treasury and IRS and ATF on cases that we mutually develop; we mutually present to the grand jury, and we'll mutually assist the U.S. attorney in prosecuting those cases. So while there's always room for improvement, overall I think it's good.

And if I could raise this one final issue, sir, the issue about jurisdiction is particularly important to us. One of the things—I think you have opportunity to increase Federal jurisdiction and help without necessarily federalizing laws. For instance, in Illinois—and Congress could encourage States to do this—we've given the authority to Federal officers to enforce State laws when they see they're committed in their presence. Heretofore, they wouldn't be able to do that. So it's a nice way to take that cadre of Federal officers who are working any number of jurisdiction to get involved more in local crimes.

And from a task force perspective, generally, the Federal requirements indicate that the Federal law enforcement officers, whatever agency they're from, have to be in charge of the task force. We

would like to see some policies set that would say either ATF or FBI or Customs, or any of the other ones we could mention, could come on over and join a sheriffs' task force or a State police task force or a city task force as one of our members, but not necessarily a leader.

Thank you for letting me share those comments.

[The prepared statement of Mr. Gainer follows:]

PREPARED STATEMENT OF TERRANCE W. GAINER, DIRECTOR, ILLINOIS STATE POLICE, ON BEHALF OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

I appreciate the opportunity to represent the International Association of Chiefs of Police at this hearing today. Police executives from across the United States are eager to share their thoughts about the relationship between federal, state and local law enforcement agencies.

By way of introduction, my police career spans more than 28 years and includes service with local, state and federal agencies. I began my professional career with the Chicago Police Department in 1968 and during the next 20 years held progressively responsible positions from patrol to homicide detective to chief legal officer. In 1989, I left Illinois to serve as special assistant to the U. S. Secretary of Transportation, responsible for drug policy. At the state level, I have served as depury state inspector general and, for the past five years, I have been the director of the Illinois State Police, a full-service police agency employing more than 3,400 women and men in diverse areas such as patrol, criminal investigations, forensic services, gang crimes, narcotics interdiction, and police training.

The current record of federal, state and local law enforcement agencies working together is good, due in large measure to the vision and understanding of DEA Administrator Tom Constantine and FBI Director Louis Freeh. Attorney General Janet Reno, COPS Director Joe Brann, BATF Director John Magaw and many other federal administrators have roots in state and local law enforcement. There is a very real and consistent interest in assisting state and local police. Therefore, I wish to highlight a few successes and request

additional focus on training, technology, and task forces.

Training

For a number of years the Federal Law Enforcement Training Center in Glencoe, the FBI National Executive Institute and National Academy, and the U.S. Park Service have assisted in developing state and local administrators. These training programs offer local police unique opportunities to collaborate and develop leadership skills side-by-side with colleagues from across the country.

Many state and major city police agencies also excel in training in specific areas....auto theft, crime trend prediction, DNA analysis, domestic violence. Law enforcement nationwide would benefit from the development of a best practices manual containing model programs in these and other diverse areas. The federal government is in the best position to take a leadership role in developing such a manual.

Technology

The future of policing, like the future of commerce worldwide, is inextricably tied to our ability to move forward technologically in a comprehensive, rapid fashion. We are encouraged by recent advancements made by the committee pursuing NCIC 2000. This project will expand police databases to include more specific information about crimes, images of drivers and wanted persons, probation and parole information, and will link separate entries by a common case number. In Illinois, we have strongly supported NCIC 2000, including loaning two staff members to the federal government for its development. However, we are concerned about the enormous infrastructure investment required by the NCIC technology. Federal authorities should seek funding alternatives to assist in this regard.

Illinois is encouraged by other shared technology. We hope to become a volunteer state this fall to send fingerprint records electronically to the federal government after processing by Illinois' Automated Fingerprint Identification System. Additionally, the National Incident Based Reporting System is primarily a statistical repository used by researchers and analysts to study crime trends. Police envision, and would benefit from, a real-time NIBRS that leads to crime solving in the here and now, linking the particular aspects of crimes committed in one jurisdiction to similar crimes committed elsewhere. A real-time NIBRS would complement the significant strides being made by state and local intelligence units in incident mapping, gang and offender tracking, and crime "hot spot" identification. These "tactical" approaches must be expanded and shared to more effectively solve and prevent crime. Additionally, we need to see that expansions in both voice and data communications are planned cooperatively among local, state and federal law enforcement agencies, so systems are interoperable.

Federal and state cooperation has also increased with the Department of Defense in regard to drug interdiction. More needs to be done. For example, through defense contracts, new non-lethal technologies such as sticky glue, strobe lights and flash-bang devices have been developed as byproducts of defense research. Federal, state and local police should be allowed access to the technology for tactical police operations.

In the forensics area we need to build a fast-moving strategy for the future direction of our lab systems, particularly in emerging technologies, like DNA and firearms analysis. We must guard against separate, redundant systems. In Chicago, we've struck a partnership to build a laboratory facility which serves municipal, county and state forensic needs. The

Chicago Forensic Science Center will process casework for the greater Chicago area under one roof, using scientists from the ISP and the former CPD lab. The merger of the state and local laboratories provides an opportunity for research, teaching and case analysis which neither entity could afford alone. This visionary approach is worthy of replication and should include federal participation.

The FBI has taken important steps in supporting the standardization of test protocols for the COmbined DNA Index System (CODIS). Every effort should be made to shorten the time line for completion of this process from the proposed 18 months (April '96-October '97). The nature and cost of DNA advancements necessitate collaborative agreements and shared resources. Task Forces

In the last few years, state, local and federal police agencies have benefitted from increased collaborative efforts. In Chicago alone these initiatives range from the DEA HIDTA (High Intensity Drug Trafficking Area) program to the FBI joint task forces on gangs, Asian organized crime and the Chicago Law Enforcement Intelligence Center. Traditionally, federal leadership is required for federal officers to participate in such initiatives. Ample opportunities exist for federal agents to work as members of task forces under state and local leadership. For example, additional federal level involvement in state and local motor vehicle theft task forces would assist in a more comprehensive approach to combating this pervasive problem.

From a public safety perspective any testimony on this topic would be incomplete without some mention of federal involvement in traffic safety initiatives. Clearly, the Federal Highway Administration and the National Highway Traffic Safety Administration have

contributed greatly to shared understanding of the cost and human suffering resulting from vehicular crashes. With so much emphasis on violent crime, we shouldn't lose sight that more lives are lost and more people are injured in crashes on city streets, county roads and interstates. Traffic safety, including the need for primary enforcement of seat belt laws, should remain a high priority in policy-setting agendas and should be appropriately funded.

These are but a few examples of interagency initiatives that are working and opportunities for additional cooperation. Again, thank you for inviting me to share my thoughts in this important area. As a police executive, I look forward to the day when our combined efforts translate into more resourceful administrators, universally compatible crime-fighting data and more strategic assignment of officers. As a policeman, I look forward to the day when our combined efforts translate into less fear of crime, additional lives saved, more crimes solved and safer, more resilient neighborhoods.

Mr. MCCOLLUM [presiding]. Thank you.
Mr. Hughes, you're recognized.

STATEMENT OF JOHNNY L. HUGHES, CONGRESSIONAL AFFAIRS CHAIRMAN, NATIONAL TROOPERS COALITION

Mr. HUGHES. Thank you. Good morning, Mr. Chairman and fellow committee members. I'm here today representing our chairman, James Rhinebarger from Indiana, and the National Troopers Coalition, which represents approximately 45,000 troopers. Our troopers range from a patrol trooper and crime investigator up through the ranks, including administrative personnel and commissioned officers, including department heads.

Our troopers work on a daily basis with all the Federal agencies: Secret Service, FBI, ATF, Immigration and Naturalization Service, Marshals, and DEA. Many of our State police and highway patrol agencies work in a joint cooperative effort to combine local, State, and Federal law enforcement task forces. As a rule, the task forces work quite well together with all participating agencies sharing resources, equipment, personnel, and information. Through joint cooperative efforts, relationships of Federal, State, and local law enforcement are enhanced. The task force personnel select a team leader with a concept that the team leader can be from the State, local, or Federal ranks. The team leader is not necessarily always from the Federal or State agency, but many times from local departments.

I'd like to emphasize, whatever the assignment or situation, when agencies, State and local, work together with Federal law enforcement, it's extremely important that they are all equal partners—and I can't overemphasize that—in intelligence-sharing and information resources. Our troopers also work alone with members of Federal law enforcement agencies. Depending on what type of case it is determines the extent of the Federal intervention.

The Federal law enforcement cooperation and relationship is usually quite good. On rare occasions there may be a personality clash causing some problems. However, these issues are normally resolved by supervision.

A good example of this working well in Maryland, we have the Washington HIDTA office directed by Tom Carr, and it's a fine example of State, local, and Federal police working quite well.

Also, past Attorneys General Ed Meese, Bill Barr, Dick Thornburgh, and Janet Reno our current Attorney General, have meetings. We discuss openly relationships with different Federal law enforcement agencies. They always want to know if there was a problem, and the relationships are always quite enhanced by these meetings. Recently, there was a meeting with James Gorelick, Deputy Attorney General, in regard to these matters.

I'd also like to follow up and mention H.R. 358, the National Commission to Support Law Enforcement. This legislation was passed in Congress. It was funded. However, legislation was never implemented. The President signed the legislation in September 1994, and appointments were to be made in December 1994. As of this date, the majority of appointments to the Commission have never been made. H.R. 358 would have addressed many of the

questions regarding State and local law enforcement relationships with Federal law enforcement.

Thank you for the opportunity to testify, and we pledge our cooperation from the National Troopers Coalition in any future hearings or information needed.

[The prepared statement of Mr. Hughes follows:]

PREPARED STATEMENT OF JOHNNY L. HUGHES, CONGRESSIONAL AFFAIRS CHAIRMAN, NATIONAL TROOPERS COALITION

The National Troopers coalition represents approximately 45,000 troopers throughout this great nation. Our troopers range from the patrol trooper and crime investigator up through the ranks including administrative commissioned officers and department heads.

Our troopers work on a daily basis with the following federal law enforcement agencies: United States Secret Service, Federal Bureau of Investigation, Alcohol, Tobacco and Firearms, Immigration and Naturalization, United States Marshals Service, and the Drug Enforcement Administration. Many of our State Police and Highway Patrol agencies work in a joint cooperative effort through combined local, state and federal law enforcement task forces. As a rule, these task forces work quite well together with all participating agencies sharing resources; i.e., equipment, personnel and information. Through these joint cooperative efforts, relationships of federal, state and local law enforcement are enhanced. The task force personnel select a team leader with the concept that the team leader can be from the local, state, or federal ranks. The team is not necessarily always from the federal or state agency, but many times from local departments.

Our troopers also work alone with members of federal law enforcement agencies. Depending on what type of case it is determines the extent of the federal law enforcement intervention. The federal law cooperation and relationship is usually very good. On rare occasions there may be a personality clash causing some problems, however, these issues are normally resolved by supervision.

I would also like to mention H.R. 358, The National Commission to Support Law Enforcement, which was introduced by Congresswoman Louise Slaughter.

The legislation was passed in Congress and funded, however, the legislation was never implemented.

President Clinton signed the legislation in September, 1994 and appointments were to be made in December, 1994.

As of this date, the majority of appointments to this commission have never been made.

H.R. 358 would have addressed many of the questions regarding state and local law enforcement relationships with federal law enforcement.

I have attached a copy of H.R. 358 to this statement. I would also request that the statement and attached correspondence become an official part of the hearing record.

[Above material in subcommittee files.]

Thank you for the opportunity to comment and if further information would be requested, please do no hesitate to contact me.

Mr. MCCOLLUM. Well, we always appreciate the troopers and your testimony. Thank you very much.

Mr. HUGHES. Thank you, sir.

Mr. MCCOLLUM. Mr. Gallegos.

STATEMENT OF GILBERT G. GALLEGOS, NATIONAL PRESIDENT, FRATERNAL ORDER OF POLICE

Mr. GALLEGOS. Thank you, Mr. Chairman and members of the Subcommittee on Crime. On behalf of the 278,000 members of the Fraternal order of Police, I appreciate the opportunity to convey our views regarding the importance of Federal law enforcement agencies in our national crimefighting efforts.

I have got 31 years of law enforcement experience with the Albuquerque Police Department and on currently a coordinator of the Region I Multi-Agency Drug Task Force in New Mexico. So I've had

the unique opportunity to work with both State, local and Federal agencies in my 31 years of experience.

State and local officers are exposed to a lot of things that happen on the streets, and Federal officers are no different. They're killed in the line of duty, they're injured in the line of duty, and they face many of the same problems that we do at the State and local level.

I represent a labor organization of rank-and-file police officers and their deep concern for our criminal justice system. That's my approach to the testimony this morning.

Also great concern to me is the fact that both Federal, State and local police officers are no longer seen as the good guys anymore or the officers with the white hats. We are now seen by the public as being bums or other names that they may call us. And this is unfortunate, but it kind of reminds me of the sixties and seventies when I came up through the ranks of the department. We were put under extreme pressure because of what was going on in the country at that time. But law enforcement stood there at that time, and I think we're prepared as law enforcement to stand today and protect society.

But what we're seeing now is on attack on law enforcement not necessarily from the leftist fringe, as we referred to them back in the sixties and seventies, but by the ultraconservative movement across this country. In particular, I'd like to cite Parade magazine article from this last Sunday where they talked primarily about the Director of the Bureau of Alcohol, Tobacco and Firearms attacks, but they also indicated that the Michigan Militia has already targeted certain ATF agents along with their families, and have identified who the families and the agents are. This sends a chill through law enforcement, whether it's ATF or on the State and local level. This is disturbing.

And it's also disturbing that in some cases we have not received, in my view, the support of one of the greatest institutions in our country, and that's the Congress. But in other respects, we have received a lot of support, and I'd like to commend the chairman for his work on the Antiterrorism Act. I think that was very important. We saw some habeas corpus reform. I think that was important. The COPS program was funded. And I would urge this Congress and this panel, if you have any influence, to continue funding that COPS program. It's important to law enforcement in this country. And, of course, the Byrne grants are important, too.

But what really struck me was that we had a law enforcement commission—the Slaughter Commission—enacted in 1994, as Johnny mentioned, to look at law enforcement as a whole. Yet, nothing has happened with that. Now, the Congress passed a Commission on the Advancement of Federal Law Enforcement, which I view as nothing more than a civilian review board over Federal officers. And I object to that. It's law now, it was signed. But it sends the wrong message to State and local law enforcement. It sends the wrong message to the Federal agents who are under extreme pressure in their jobs.

And I've spoken to a lot of Federal agents and their supervisors, primarily regarding what's going on in some of the departments. Some of the agents and the supervisors in the DEA, FBI, Border Patrol, and Bureau of Alcohol, Tobacco and Firearms are concerned

because they don't see any real support. This panel and this Congress and all of us need to support the Federal officers and not doubt them.

We know that mistakes were made at Ruby Ridge and Waco, but we're only human and we make mistakes. We make mistakes at the State and local level. But what is needed now is support for the State and Federal and local law enforcement agencies rather than doubt.

One of the specific comments that I heard from drug agents was that the forfeiture policy that is currently in place is suspect as far as the drug agents because nothing is happening. We have Federal laws; we have State laws that deal with Federal forfeitures and local forfeitures, but yet the agents are going out; they're working undercover, put in dangerous situations, and nothing is being done to the drug traffickers as far as forfeitures.

This Congress could do justice to the work of the DEA and other Federal narcotics agents and the drug task forces by doing something about the forfeiture problems that we're having across this country. Forfeitures are down. There's been recent decisions that address the double-jeopardy issue that could be addressed by this Congress and corrected, and make the job and the lives of the agents much better.

In the past 3 years, I have personally seen a dramatic increase in Federal and local participation, principally in drug enforcement and antigang initiatives. I think the partnerships are great. I think we are using the limited funds in the best way possible. Criminal intelligence information is shared much more often than it used to be.

I remember the old J. Edgar Hoover days when you couldn't get anything out of the FBI. I'm not saying that everything's 100 percent now, there's still unique problems, but what I've seen in my State is that State, local, and the Federal agencies are getting together. We've come up with a combined intelligence center to address the drug problems and the gang initiatives throughout our State. Those examples can be used throughout the country. They are making an effort to try and cooperate with the State and local. And, as I said, it's not 100 percent, but it's steps ahead of what it was 15 to 20 years ago, and we have to continue that.

The HIDTA program has been extremely successful. I work in New Mexico, which is a border State, and we have a lot of problems with drug trafficking and we've been able to address those cooperatively in partnerships with the Federal agencies in the HIDTA program, in particular.

We know that ATF has been targeted by certain groups, and that includes the NRA, for consolidation with the FBI. And let me state unequivocally what the position of the Fraternal Order of Police is on this issue. We do not support and will not support consolidation of Federal agencies, be it ATF with the Federal Bureau of Investigation or any other group. We think that it would be a trend toward developing a super-Federal law enforcement agency, which would be contrary to good public policy and would not be effective law enforcement. So we do not support any consolidation of the Federal agencies. If you have to redefine some duties, that may be needed. For the most part, I think they're doing fine now. They

need to constantly be on watch to do a better job, as we all do and I think they're striving to do that.

We do support, though, the U.S. Marshals Reform Act, which the Congressman was involved in pushing through, and we believe it will add to the professional attitude of the U.S. Marshals Service, and we will continue support that measure in the Senate.

We were very gratified that there was also an effort made in prison reform. There has been much said this morning about prisons and whether State prisoners should be in Federal systems, and so forth. I think that the prison reform that was passed in the appropriations bill is going to be very effective in allowing the States to be flexible in how they handle their prison populations. That is very important to law enforcement, and it will go a long way. I commend the chairman for his work in that area.

But I would state unequivocally, again, our support for Federal law enforcement. We understand that there are problems. There are individual problems. There are bureaucratic problems. We do not feel that consolidation would be a good thing for law enforcement, and we definitely do not support the Commission to look at Federal law enforcement agencies.

And I know you want to keep it brief, so that concludes my statement.

[The prepared statement of Mr. Gallegos follows:]

PREPARED STATEMENT OF GILBERT G. GALLEGOS, NATIONAL PRESIDENT, FRATERNAL ORDER OF POLICE

F O P Testimony
May 23, 1996
Page 1

Good morning Mr. Chairman and members of the Subcommittee on Crime Thank you for giving the Fraternal Order of Police the opportunity to convey our views regarding the importance of Federal law enforcement agencies for our national crime fighting efforts As president of the FOP, I represent over 270,000 members including thousands of professional crime fighters from various federal agencies.

My thirty-one years of law enforcement service with the Albuquerque Police Department and current work with the Region I Multi-agency Drug Task Force in New Mexico has given me the unique opportunity to work actively with local, state and federal agencies. My tenure as a police professional has exposed me to some of life's more positive experiences and alternatively, caused me to deal with society's "misfits." I have experienced times of ecstasy and pride over solving a case and have looked down the barrel of a revolver as its cylinder turned ready to fire. These encounters are not unique because thousands of police officers, including federal officers, have had similar experiences. Those things happen when one deals directly with society's criminals.

One thing I have learned, is that we in law enforcement no longer wear the "white hats" nor are we considered the "good guys" by some. This comes with the territory. It is a similar "anti police attitude" that existed during the sixties and seventies when our nation was under extreme pressure due to the Vietnam War and the civil rights movement. Revolutionary times for a country that needed change. Turbulent and often violent confrontations brought death and injury to many officers and the destruction of property was common. These tough times called for tough measures, sacrifices and diligence to duty by law enforcement officers. Despite injury and the threat of death, law enforcement officers remained on the front lines. Fortunately, for American society, we remain on the front lines today.

However, we now see attacks on law enforcement, not from the leftist fringe but from the conservative element in our society. It has been reported that police officials have been targeted by certain militia groups and attacks on officers continue. Just this past Sunday, Parade Magazine reported the Michigan Militia has gathered the home addresses of agents of the Bureau of Alcohol, Tobacco and Firearms, along with information on their children. Obviously, this is an affront to the agents; however, imagine what a chilling effect this has on these individuals and their families because the threat involves their innocent children.

This aggression aimed at law enforcement is clearly disturbing. However, what is more disturbing to me, is that one of our most influential American institutions, Congress, has joined those who doubt the abilities of federal law enforcement. Now, is the time for greater support rather than doubt. The new Antiterrorism Act brought some relief, yet left many unresolved issues. I was astounded that the Commission on the Advancement of Federal Law Enforcement was included in that Act. A negative message was sent to law enforcement. By authorizing an uncontrolled civilian review board over federal law enforcement agencies consideration for the

constitutional rights of the officers was disregarded I view this as an abrogation of the responsibilities of Congress and the Courts who already have oversight capabilities and responsibility for law enforcement behavior. This anti law enforcement amendment not only sent the wrong message to the "feds" but it showed state and local agencies that support for them is also suspect. Mr. Chairman, your leadership in law enforcement oversight, including the hearing today, is evidence of the thoughtful diligent approach to oversight taken by this Congress.

I will be the first to admit, that we often make mistakes just like every other human being on this planet. Every institution, including law enforcement, is subject to making mistakes despite the best intentions, funding or training. This is the real world. We all know that mistakes were made at Ruby Ridge and at Waco. Yet for the most part, police officers throughout this country knew that the tragic results in those two cases were inevitable. It was a tragedy waiting to happen. David Koresch and the Weaver family became martyrs while the law enforcement officers who lost their lives were overlooked or at best minimized. This angers me because the officers were only doing their duty based on what was expected of them.

I recently spoke to some agents and supervisors of the Drug Enforcement Administration, The Federal Bureau of Investigation, Border Patrol and the Bureau of Alcohol, Tobacco and Firearms who are quite concerned because they perceive a lack of federal support. Several have noted that in their agencies, morale is low for many reasons, although most noted: that employees felt their every action was being scrutinized. Also, every anonymous allegation is investigated even though there is no substance to the initial complaint. One DEA agent was investigated when an inmate in the federal penitentiary accused him of stealing a watch seven years prior to the allegation. The agent was absolved after it was determined the inmate's wife had the watch. The accusation was false from the beginning yet the agent had to endure unnecessary scrutiny and stress.

Border patrol personnel are also investigated on minimal information. I was advised by a supervisor that agents are concerned they are being compromised in their duties to control illegal entry into the country. Many of the false allegations have come from foreign nationals as a means to stay in the country, even if for a short time.

An area of specific comment from drug agents was the impact of the forfeiture policy regarding seizure of property from drug traffickers. I was told by a supervisor that agents do not perceive any support to follow the law concerning seizure of assets. They perceive a lack of will to address the problems created by recent court decisions affecting asset seizures. This has direct negative impact on the morale of drug agents. It is commonly known that forfeiture denies the availability of funds for continued criminal enterprises. Subsequent forfeitures are often shared with state and local departments, and encourage more interagency cooperation.

In the past three years, I have seen a dramatic increase in federal and local cooperation, principally in the area of drug enforcement and anti-gang initiatives. Law enforcement partnerships effectively utilize limited funds and have proven successful throughout the country Criminal intelligence information is shared more often so that duplicate investigations are reduced. Multi-agency task forces involving state, local and federal agencies are encouraged by the Departments of Justice and Treasury. However, the air of suspicion and lack of support greatly reduces the ability of all agencies to truly impact the horrendous crime problems facing this country. These are difficult and complex issues that cannot be addressed in simple political terms.

I am concerned that political proposals to merge agencies are inconsistent and ill-advised public policy. Consolidation of agencies could ultimately lead to a "national police force" which will reduce interagency cooperation and the effective independent investigation of federal crimes. We all know that ATF has been targeted for "consolidation" with the FBI due to extreme pressure from the National Rifle Association and some in Congress. This is not a new initiative. The recent book, *Inside the NRA*, authored by Jack Anderson, outlines' President Reagan's 1980 promise to abolish the Bureau. The promise was abandoned after the NRA discovered the functions of ATF were not ending, but simply being transferred to another federal agency.

The ATF is recognized around the country for its expertise in firearms identification, explosive's disposal and reconstruction, arson investigation and overall cooperation with state and local agencies. The Fraternal Order of Police has experienced first hand the ability of ATF to train local officers in gang recognition and investigation methods. One of the reasons' agents work so well with locals is that many of them were police officers prior to joining the Bureau. They have first hand experience in addressing the problems faced by the police. I feel this is an asset.

The ATF is also responsible for enforcing firearms laws passed by Congress. Therefore, they have been targeted by the NRA and other pro-gun forces. Their duty is to enforce the laws of the land such as the "cop killer bullet" provisions and the Brady Bill. They have been subjected to budget cutting in the name of expediency. However, we see the purposes and motivations behind these unfair Congressional actions.

If Congress creates a super federal law enforcement agency, it will place current diversified authority in the hands of a single powerful department that could reduce overall police effectiveness. The Fraternal Order of Police will not support this concept. I am certain state and local police departments will not support it either.

We do support the U.S. Marshals Service Reform Act which passed the House and is pending in the Senate. This Act will further professionalize the Marshals Service. I commend Chairman McCollum for following through on this legislation.

Finally, I will reiterate the FOP position regarding the federal officers civilian review board We are against it and will not rest until Congress rescinds this ill advised amendment to the Antiterrorist Act. We will be monitoring the implementation and functional process of the board to ensure that officer rights are maintained. I also feel it is time that all federal law enforcement officers/agents are given the authority to enter into collective bargaining contracts with their departments. This will allow for establishing partnerships with management that enhance the employer/employee relationship and will improve agencies' overall effectiveness.

While not excusing illegal acts or violations of policy, it is important that our leadership institutions, such as Congress, support federal law enforcement agencies. Those federal officers along with their partners at the state and local level diligently protect the public from the criminal element of our society.

Mr. Chairman,. I thank you and the ranking minority member, Mr. Schumer, for holding this hearing and for your consistent support for law enforcement officers at every level. I will be happy to answer any questions you may have.

Mr. MCCOLLUM. Well, thank you very much. You've done very well.

Mr. GALLEGOS. Thank you.

Mr. MCCOLLUM. Good statement, Mr. Gallegos.

Mr. Meeks, you're recognized.

STATEMENT OF CHARLES B. MEEKS, EXECUTIVE DIRECTOR, NATIONAL SHERIFFS' ASSOCIATION

Mr. MEEKS. Yes, sir, I'm Bud Meeks, and I represent the sheriffs of the United States, of which there are 3,095 of them. And of that, about 3,094 of them are elected. And, as you know, we often are very vocal on some of the things that we believe in and some of the things that are happening.

I want to go back to the thrust of what you brought us here for concerning the nature, extent, and proliferation of the Federal law enforcement. When I got the invitation to come here, I said, well, I don't know, maybe I ought not do that. Maybe I ought not say anything because there are a lot of problems, and we should bring the problems to you. And I said, well, you could burn a lot of bridges by doing that also. But I felt it was important for us to do that.

I think it's important for us to understand that, under the leadership of Janet Reno, the Department of Justice has never been as open as it is right now. I have never seen it as open as it is right now for input. I have never seen Congress so intense in their investigation and involvement in the problems facing law enforcement and the criminal justice element within our country as we've seen it in the last 6 or 7 years.

But all of that's causing us problems, big problems. The sheriffs out West are divided, and deeply divided, over the gun issue. You've seen the cases that have been sent to the Supreme Court. The fact of the matter is the whole State of Wyoming was going to walk out of our association because of our position of the assault weapon ban, of which we still support to this day, and the Brady bill.

We support good Federal law enforcement when it's doing its job and not involving itself in local law enforcement. It has the ability to bring together those techniques that we can garner from worldwide law enforcement as far as management tools are concerned and as far as techniques are concerned, and sharing that with the State and locals. But why is it that every time we go to a budget OMB says it's not the responsibility of the Federal Government to train State and locals, and then we have to fight to have the $800,000 put back into the budget to bring the officers from the local area to the FBI Academy?

You know, we sit there and we say, well, what is the mission of the Federal Government then? Is it to get involved in State and local's responsibilities? Is it the responsibility of the Federal Government? I applaud ATF going to Mississippi and taking a look at the problems of the church-burnings. I think that's a role for the ATF to do that, to come into those areas. But, I'll tell you, it is very difficult for me, when I'm sitting in my office and some agents come in from a Federal agency and say that we're getting involved in Federal law enforcement as far as juveniles are concerned.

And I said, "I can see you right now with a picture of John Gotti on one side and a 14-year-old car theft suspect on the other side." I said, "Is that really what you want to get involved in? Do you really want to do that? Do you really want to get into juvenile detention facilities? Do you really want to do that? Is that the mission of the Federal Government?"

He sat back and said, "No, I wasn't trained to do that."

And I said, "No, you were not trained to do that. That's a problem and responsibility of local government to do that. Your job is to support local government and to enforce those laws that are set by the Federal Government."

I'll give you a classic example of what had happened that was a good one. Susan Smith, when she killed her two children, that had State government, local government, and municipal government, and the Federal Government came to assist in that. The Federal Government took a supportive role. Everything worked. Everything worked in that particular case.

Now I'll go over to another side of the law that you just passed on your terrorism bill and the Timothy McVeigh case that is being planned for in Denver right today. When a planning session happened this week and it came to terrorism, when the question was, "What would we do, all agencies participating, what would we do if a terrorist or a militia took a hostage during this situation?", the Federal agent said this, "That is the responsibility of the Federal Government, and we will take the responsibility," period.

Now the sheriff called me on that, and I said, "Well, what was the comment from the people that were there?" And they said, "It was as if Big Brother is here and is going to tell us what we've got to do." That sends the wrong signal out to a lot of people, and those are recent cases.

If you take a look at the carjacking statutes and you take a look at the one—when I heard the issues of cherry-picking, you see that. The last one I heard was on the spousal abuse where the guy kidnapped his wife, put her in the trunk of his car, kept her there for 4 days, and let her out when she damned near died. And the Federal Government took that case. That was a highprofile case.

But when I've got a sheriff that calls in and says, "I've got a bad case of spousal abuse here," and if it doesn't hit the front page, that's a local problem. You handle it on a local level.

So those are the kinds of things that we're facing out there. And the more you do that, the more you give the laws and the more you build more agents and the more you do those kinds of things, the next thing we know we find the people on the local level are saying, "What is the Federal Government doing?" The heavy hand of the Federal Government is coming down, and that's why the sheriffs in our area—in Montana, in Michigan, and Indiana, and Illinois—when they face the posse comitatus and the militias, they sit back and they say, "We've got to work with these people," but the first thing they say, "We like you, Sheriff. We like you, Chief. But we don't like that Federal Government, and we're after that Federal Government." So all of a sudden, we're on the buffer of it, and then we run into the people like the Freemen.

And I heard people say today that you had—we called in the Federal Government. Sure, we had to call in the Federal. If you

hadn't had called the Federal Government in, they would have went out there and burned them out, because they were already ready to do it. They said, "We're going to do it," even though this was a massive thing, it had over $3 million in checks written. So, yes, there is a place for the Federal Government in cooperation, but we have got to be careful about what we do.

Recently, I had to attack two particular pieces of legislation that came down the line. One of them was the National Police Officers' pursuit policy. You might as well taken the kerosene and just threw it right on the militia. You've not only now said that you're going to put a national pursuit policy, but you're going to call it the National Police Policy. I mean, that's exactly what these people are saying is wrong, when we send legislation there.

And, then, I'll close at this: you gave us money to the OJJDP, and in that you sent it out to the Office of Juvenile Justice Programs. The States got the money, took the money, but there's two caveats in that, when you gave us the money. You said, if you take our money, you can't house a juvenile in a jail for over 24 hours, even though the juvenile is not in sight and sound of the adult population. So what you did was, you gave us the money and then turned right around and told the sheriff, "You've got to transport that prisoner, that juvenile, 150 miles to a juvenile facility and house them there, and then go get them and bring them back."

And then on the top of that you said, "If you take our money and you go to build a new juvenile facility, it cannot be run by the same person who runs the adult detention facility." So now you've told the locals, "We're going to give you the money, but then, again, if you take the money, you're going to add on another layer in county government."

And that's when we sit back and we say, Why even get involved in it? Why take the money? Why take the money for the COPS program, because, you know, we really can't use that money? But I will tell you this: 1,600 sheriffs have taken that money, and they've got over 16,000 deputies that are coming out there. Yes, they are now getting involved, and we believe in community policing, and that's why they're there.

Block grants, you get them out and we'll take the money, yes, sir. We'll do it. And you say, "Well, you're going to have to have strings it." If they're reasonable strings, we will take it, but, please, the proliferation of Federal law enforcement, as one sheriff in Montana said, is one of the big problems that we're having with our militias today.

Thank you.

[The prepared statement of Mr. Meeks follows:]

PREPARED STATEMENT OF CHARLES B. MEEKS, EXECUTIVE DIRECTOR, NATIONAL SHERIFFS' ASSOCIATION

Mr. Chairman, members of the Subcommittee, my name is Bud Meeks and I am the Executive Director of the National Sheriffs' Association. It gives me great honor and pleasure to have the opportunity to address you this morning concerning the nature, extent, and proliferation of federal law enforcement.

On January 1, 1961, I reported to duty at the Sheriff's Office in Allen County, Fort Wayne, Indiana. I was the 37th deputy hired. My very first encounter with federal law enforcement was with the Federal Bureau of Investigation.

The FBI conducted the first training program that I experienced as a law enforcement professional. Since that time, and to this very day, I have the utmost respect

for the Federal Bureau of Investigation and I am proud to say that I am a graduate of the FBI National Academy, the most prestigious law enforcement training program in the country. When I came to Washington, D.C. in 1989 as Executive Director of the National Sheriffs' Association, I had not just "gotten off the bus."

During my 35-year association with law enforcement, I have seen many changes. Under President Clinton's leadership, community policing is moving to the forefront, where it should be. We strongly support the community policing concept. The Department of Justice, under the guidance of Attorney General Janet Reno, has never been more open to local law enforcement than it is now. The ability to communicate with the Attorney General and her staff is outstanding!

The improvement of NCIC 2000 is an aid and an asset to local law enforcement. The U.S. Marshals Service, and the sheriffs of America, who share traditionally compatible responsibilities, continue to work closely and in harmony. There are many more illustrations of inter-agency cooperation which could be cited here as examples of our successful joint efforts in fighting crime in America.

However, there are problems! These problems arise when the federal government decides to insert itself into local issues, interfere with responsibilities already handled by local law enforcement and dictating policy and procedures by federalizing local and state laws. First came federalization of carjacking laws. Now we hear of efforts to federalize juvenile crime. Why does the Federal Government feel compelled to intervene in these problems already addressed by local law enforcement? That is the question asked by state and local law enforcement.

We, in local law enforcement, with federal law enforcement, successfully work together to attack organized crime, organized drug dealers, political corruption and white collar crime. We, in local law enforcement, work together to address juvenile crime. A recent conversation with some FBI Agents left me with the distinct impression that the Federal Bureau of Investigation is now, and will be taking broader responsibility, in juvenile enforcement. The sheriffs of the United States strongly believe that this is the responsibility of state and local law enforcement. We don't need inconsistent laws which provide money to the states to combat juvenile crime yet require a sheriff to transport a juvenile 125 miles one way because regulations prohibit housing a juvenile in a jail, even if that jail meets the state requirements for sight and sound. This is unacceptable. It is equally unacceptable to require a county struggling with its financial base to construct new juvenile detention facilities which cannot be connected to a county jail and cannot be run by a sheriff. Separate facilities, separate staff end separate administration equates to high cost of operation. This is not acceptable!

Recently, a United States Senator was proposing a federal law calling it the *"National Police Pursuit Driving Policy."* Are we moving toward a national police force? What about the proposal of a Police Officers Bill of Rights? This is a bill that I would support, and could Quay support, on the state level. It is not, *and should not,* be the responsibility of the federal government to get involved in local management issues. With ceaseless unfunded mandates continuing to deplete precious local dollars, and with federal law enforcement engaged in "turf wars" over overlapping jurisdictions, confusion results. I have watched the evolution of DEA. It started as two separate organizations, one enforcing narcotic laws and the other enforcing dangerous drugs. The merging of FBNDD into DEA is a development that is recent in history and was done to streamline and focus drug enforcement efforts. Now it seems that everyone is involved in drug enforcement with no clarification of responsibility. We have lost that focus—and losing focus means losing effectiveness.

Asset forfeiture is an area strongly supported by the National Sheriffs' Association. We have worked closely with the Department of Justice to bring about positive changes. However, we are now informed that all of the changes that were done in the Department of Justice are not binding with the Treasury Department. It appears that the Treasury Department has a separate set of regulations.

One of the most successful partnerships between federal and local law enforcement, the FBI National Academy, was established in the 1930's by J. Edgar Hoover. It was Mr. Hoover's goal to share with local law enforcement the latest in law enforcement management techniques and to develop partnerships between local law enforcement and the FBI. The FBI National Academy Associates program is an example of the continuing success of Mr. Hoover's dream. However, when we are told by OMB that it is not the responsibility of the federal government to train state and local law enforcement, it sends the wrong signal.

It is the fear of sheriffs with whom I have spoken that the intrusiveness of the federal government will have a devastating effect into the 21st Century. Our association believes that it is important that the role of federal law enforcement be clearly defined and that a spirit of cooperation be constantly reinforced. If this is not done, it will add fuel to the fire of those individuals who distrust the federal

government and with whom we must deal on the local level. I believe that it is vitally important that the federal government set upon a course in reversing its intrusiveness in the role of state and local law enforcement before it's too late.

In closing, I would like to leave you with the words of Dean Briggs, "Do your work. Not just your work and no more, but a little more for the lavishing's sake—that little more which is worth all the rest. And if you suffer, as you must, and if you doubt, as you must, do your work. Put your heart into it, and the sky will clear. Then, out of your very doubt and suffering, will be born the supreme joy of life."

If the federal government would concentrate its efforts on its work, and let state and local government concentrate on its work, the way the Constitution intended, our law enforcement efforts at all levels will meet with success!

Mr. Chairman and members of the Subcommittee, thank you for inviting the National Sheriffs' Association to share with you our thoughts and concerns. We pledge to you that the sheriffs of the United States will continue to work together to address the problems facing this great Republic.

Thank you.

Mr. MCCOLLUM. Thank you very much, Mr. Meeks.

I'll recognize myself for 5 minutes.

First of all, I want to comment particularly because of the comments both you, Mr. Meeks, and you, Mr. Gallegos, have made about the broader picture here. I am completely in concurrence with your concern about the feelings of a lot of the public, whether they are the right or the left, or whatever, about law enforcement today, whether it's Federal or State or local. And a lot of that has come from great misunderstandings, misapprehensions, and people who write letters. There are lots of folks today who are in the business of creating fundraising mechanisms, and their objective, whether it's in this area or in any other area, is to inflame passions to get people to contribute more money to whatever cause they're writing about. And right now there are a lot of them in the post-Waco, Ruby Ridge, Oklahoma City period writing letters that are very inflammatory and contain statements that just flat-out aren't true, and they're being perpetuated and rumors are being passed, and it's become a very bad climate.

Radio talk shows, some of them, are just the same way. We live in a different world today than we did a few years ago, and that world of instant communication has big pluses, but it can also have big minuses.

So I want you to know that this subcommittee, this chairman, is dedicated to working with all of you at the local as well as our Federal officers' level to try our best to make sure that we get over this hurdle and get the truth out there about what it's all about. Most all of our Federal law enforcement and local law enforcement officials are doing their job to protect the American public in a very constitutional way, and lots and lots of bad stuff is being said that just is not true.

So thank you for recognizing some of the things the committee's done. We, all of us, will from time to time have disputes over particulars, but this committee has been, and always will be, very supportive of things that are good for law enforcement.

And what you're doing today by coming before us to help us understand better what it is that we can do, if anything, to avoid some of the problems we've been having, both in the broad spectrum that you, Mr. Meeks, talked about in terms of Federal involvement where it shouldn't be, as well as in the area of trying to see if there are areas where we have overlapping interests that are getting in the way at the Federal level of doing what we should

be doing amongst our own people. So there are really two levels. One, Federal law enforcement's involvement with locals and maybe overdoing it or not doing it the right way; the other one, which is something you observed, where we may be finding portions of our Federal law enforcement stomping on each other, FBI, ATF, or whatever. So all of that is very helpful.

I'm particularly interested in making one last observation and then asking two quick questions. We're going to come up with a juvenile justice type of legislation probably very soon this year, and what you're saying, Mr. Meeks, is very appropriate. It is not a Federal matter in many ways, but it is a national concern. And I would be the last one to want to federalize juvenile laws. We don't have the facilities. We shouldn't be in that role, but violent juvenile predators are, as you know, and all of us do, the biggest thing facing us today in this Nation. How do we deal with it? How do we prevent it? How do we deal with the ones who are there committing these crimes, the 15- and 19-year-olds, and the increased population?

And so we need a national solution, and we've been listening. We're going to continue to listen, all of us here are. Mr. Scott, Mr. Barr, Mr. Watt have been with us on occasion when we've gone out in the field. We're going to do more of that before we resolve it, but we are determined to provide some national leadership.

On the question of Federal law enforcement, I'm curious to know if any of you perceive a situation which was discussed with the first panel where we've got—is it the FBI, the DEA, or whoever—stepping over on somebody else's turf to such a degree that when they come into your jurisdiction, it isn't just a matter of their interfering with local, but that we're not getting an efficient product out of these agencies, DEA, whatever. Are we seeing them come in and agencies trying to duplicate one another? Do FBI agents come in, when it really is DEA territory? Is there confusion? They say they work all this out and they have task forces, and we listen to them. And I know they try, but what's the reality out there in the field? Can anybody tell me that? Mr. Gallegos.

Mr. GALLEGOS. They're making the effort; I directly experience just about every day; they absolutely are. And there's always problems about duplicate investigations, and that's true on the State and local level too. Sometimes the State police doesn't talk to the local department or the sheriff, and you have the problem again.

I spoke very briefly about what we have done in our State. We have taken an affirmative action by putting together a group of State, local, and the different Federal agencies, sitting them down, and discussing the different problems. We have formal mechanisms to do that, and that came in New Mexico several years ago, when the Governor developed a drug enforcement advisory committee. That was when the Edward Byrne money first came out, before it was called Edward Byrne money, in an effort to coordinate the efforts, the investigations, across the State. Since we have received HIDTA funds, the need for greater coordination is even more apparent.

And I think we're doing a much better job. There are still some instances, obviously, where you have two different agencies investigating the same person, and the goal is to try and bring those to-

gether. And as long as you have people sitting down, discussing, talking about what's going on, exchanging the intelligence information, the problem can be lessened. You will never correct it 100 percent, and I'm not saying to this day that we're at 100 percent, but I think the efforts are being made, much more in the last 3 years that I've seen than in the last 28 years as a police officer.

Mr. MCCOLLUM. Mr. Gainer, do you see a problem from the chief of police perspective with this? Do we have problems with overlapping jurisdictions here?

Mr. GAINER. As a rule, I don't think you do. I think the policy has been set from the headquarters offices, and it's been followed honestly at the State and local level. And I agree that the—I'm real sensitive to that, too, running a State police agency because we can fall into the same trap, where the State police doesn't talk to the—don't talk to the sheriffs or the city police departments, and there are missteps, but those are the rarity. And overall I think we divide the—either we work together on cases or we divide long-term, short-term, medium-term investigations to that agency that's best qualified to do it.

Mr. MCCOLLUM. And there's not a lot of confusion by all this proliferation of Federal law enforcement, the fact we've got so many different agencies out there in the field with offices maybe in your big cities? There's not too much confusion? You've got it all sorted out from your perspective? Your folks know where to go when they need to go some place to interface with which agency? I mean, that's just pretty clear?

Mr. GAINER. Clearly, it is. I really think it is. Now the public may not have a clear perspective on what that is, but, again, I heard one of the other Congressman say it very well: that the public doesn't particularly care which agency steps in and helps their drug problem.

But I think overall the International Association of Chiefs of Police at our meetings are happy and content with the direction the Federal enforcement agencies are going, but it's brought about not when you call the agency just when you need them. You really need an ongoing, constant communication and sharing of training and sharing of information and sharing of tactics and procedures that makes the call in the middle of the night to a particular Federal agency that we need help, that it's not the first time they've ever heard from the chief or the officer. That is a relationship that was built during the quiet times.

Mr. MCCOLLUM. OK. I don't want to take more time, and my time has passed, but if Mr. Hughes or Mr. Meeks want to comment on that, you're welcome to. Any disagreement or——

Mr. MEEKS. I think there's definitely got to be a delineation. I think it's important that the FBNDD that's now the DEA should do the drug enforcement, and the FBI ought to go back doing what it does best. That's my white-collar crime, political corruption, and organized crime, and I think there should be a delineation between the two.

Mr. MCCOLLUM. You do see conflicts——

Mr. MEEKS. I don't see how both agencies can do it.

Mr. MCCOLLUM [continuing]. Where they come in——

Mr. MEEKS. I see conflicts in it, yes, sir. I don't see how you can get involved in a white-collar crime or political corruption and have two agencies like DEA, which is tasked to do it—that's their responsibility; that's their goal; that's what they're supposed to do. And then you come in and say, well, the FBI's going to do the job also, and then you come into the——

Mr. MCCOLLUM. Well, what about BATF and the arson and the FBI, and so forth? Do you see overlaps there, too?

Mr. MEEKS. I see that they have specific responsibility, and the ATF has—when you guys make tobacco illegal, ATF is going to have a hell of a role trying to control the importation and deportation of tobacco. They're going to have a big role when you make tobacco illegal.

Mr. MCCOLLUM. With all due respect——

Mr. MEEKS. You're going to see them——

Mr. MCCOLLUM [continuing]. I don't really think we're going to do that.

Mr. MEEKS. Well, I'll tell you, you're trying. [Laughter.]

But you're going to give them a job, and that job is going to be greater. And I think that they have to specify what they're come at and become that person that you call if you have that case. If I've got a gun-runner that's selling automatic weapons, I've got to have somebody to go to, and that's ATF. And that's the job they do, and they do a good job on it. And when it comes to firearms and dynamite and those things, those guys are good. They're great, and they should be supporting locals. But, boy, when you start putting them all in a big pot and say, well, we're together on this thing, somebody's—it's not going to work right.

Mr. MCCOLLUM. Well, you or somebody else was telling me earlier—I heard somebody say the ATF was out doing a drug case or it does drug cases, and I know they have some relationship with metamphetamines, and so forth.

So I understand it's a line—that's why I asked the question—it's a line that's difficult, but, as some of you are saying, it's being coordinated and it's working out fine. And you're saying, well, that isn't always really the case. I understand.

Mr. GAINER. Representative——

Mr. MEEKS. Congressman, I'll tell you what, the day you build an academy down there and you have ATF and the FBI in the same building and the same academy, then I'll know that you've made that deal. When you can get those guys down there 40 miles from here working about what they're going to do, then I'll know that you've successfully completed your task. And that, you can't even do that 40 miles from here.

Mr. MCCOLLUM. That's fair enough.

Mr. Hughes.

Mr. HUGHES. I was just going to follow up. We had a national conference last week during police week in Baltimore. We had all our national representatives there, and we brought a lot of these issues up, from talking to Paul McNulty and knowing this hearing was coming up. I know occasionally you'll have small turf battles, and they can be in local departments or State or Federal, and I think you have to have equal partnerships, and I think the direction has to come down from the top. I think under Louis Freeh and

Tom Constantine, as Terry Gainer pointed out, I think you have direction coming down from the top. And I think if more of that would occur, direction coming down from the top, with some of the other Federal agencies, you're not going to have these type of things going on except maybe in an isolated case. And a lot of times it's just a small personality problem between a trooper and a sheriff, because as Bud told me, a lot of these sheriffs want to become troopers. [Laughter.]

Mr. GAINER. Congressman, Congressman, may I add just one thing?

Mr. MCCOLLUM. Yes, just one, and I really——

Mr. GALLEGOS. That's because they'd like to write tickets. [Laughter.]

Mr. GAINER. I'm not suggesting that the—I answered your question very directly: Do we understand the processes that exist? And we do and work within that process, which doesn't necessarily address the issue: can there be refinements in who is doing what? And I think everybody legitimately who runs an organization continually does that, but it's hard to work any street crime nowadays that somehow doesn't end up having a drug connection. So it doesn't strike me strange, whether Customs or Postal or ATF, or anybody else, working a particular branch of their primary responsibility, bleeds into the drug area.

Mr. MCCOLLUM. Thank you.

Mr. Scott, you're recognized.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Meeks was doing right well until he started messing with one of the largest employers in my district, speaking about tobacco. [Laughter.]

Mr. Chairman, I just wanted to recognize, if I could, some people in the audience from the Parents Academy. Mrs. Virgie Bedford is director of the group. They're from Richmond, VA, and we want to welcome them to the committee.

And say that, as the chairman has mentioned, juvenile crime is a very important matter. Mr. O'Malley on the prior panel pointed out that the criminal justice system is doing about as good a job as can be done. They're locking up thousands of people. In Richmond, VA, if we had behind bars today the same number of people that most countries have behind bars—that is, about 100 people per 100,000 population—we'd have about 200 people behind bars at a cost of $4 million a year. We have, counting local and State incarceration, about 3,000 people incarcerated today in Virginia at a cost not of $4 million, but of $60 million. And if we doubled that, we wouldn't see any significant difference in crime. So I would hope that we would do what we can to try to prevent crime before it occurs rather than waiting for it to occur and spending tons of money after it's already too late.

Mr. Meeks, you mentioned the JJDP reauthorization that we're considering and the logistical difficulties the sheriffs have when you have a local jail and dealing with juveniles and adults. Do you have any problem with the sight and sound separation policy?

Mr. MEEKS. No, sir, I believe in that. I believe that sight and sound should be the standard, and that is the standard, for accreditation, and in many State accreditation and State laws.

Mr. SCOTT. So it's just implementing that policy the way JJDP requires it is the problem, not the concept itself?

Mr. MEEKS. Yes, sir, it breaks our back when you do that.

Mr. SCOTT. OK. And we've heard the horror stories about how far some of you have to take some people, and I think rural areas it's very difficult. And I haven't heard anyone question the overall philosophy and idea that there ought to be sight and sound separation. So I suspect that we will be able to make some accommodation there without compromising on the principle.

Mr. Hughes, you mentioned the Slaughter Commission. Do I understand that you—do you support or oppose the Commission on the Advancement of Federal Law Enforcement which was included in the terrorism act?

Mr. HUGHES. We oppose that.

Mr. SCOTT. OK, but support the Slaughter Commission?

Mr. HUGHES. Yes, sir. Yes, sir.

Mr. SCOTT. You oppose the one on terrorism and support the one—so all we have to do is make the appointments? Everything else for the Slaughter Commission is up and running?

Mr. HUGHES. Yes.

Mr. SCOTT. OK. Mr. Gainer, you mentioned some of the fingerprinting work we're doing. Is AFIS getting federalized on a standard where people can talk to each other? Is that—how is that going? I think you mentioned 18 months. Was that—DNA is 18 months?

Mr. GAINER. That's the DNA.

Mr. SCOTT. How is AFIS, first? How is that working?

Mr. GAINER. It is moving well for those—the protocol is being designed with the States in mind. I do not think all the States or most of the States and most of the locals are going to have the infrastructure, hardware, or software to support that portion. So the States that have been able to dedicate funds to that, it is moving.

Mr. SCOTT. Do we have to do what we did with DNA to fund capital expenditures to try to get that up and running?

Mr. GAINER. It seems to me you're going to have to because, even under the—you know, the close similarity with some of the requirements of the Brady bill, if you're going to do nationwide instant checks or fingerprint checks, there's many jurisdictions that aren't going to be up to speed, and if they started today, they wouldn't be ready to switch to AFIS systems nationwide.

Mr. SCOTT. Would they be able to convert with the information they have in their noncompatible systems?

Mr. GAINER. Well, most of their systems now would not be automated. So you have to take the large cost to first automate. And we all working closely with the vendors. Again, the International Association of Chiefs of Police have talked to vendors as we've come together to force them, if they are going to have competing systems, that they have interoperability.

Mr. SCOTT. OK. And Mr.—how do you pronounce your—Gallegos?

Mr. GALLEGOS. Gallegos.

Mr. SCOTT. Gallegos. Habeas corpus reform included a provision that provided that if you have evidence that you're probably innocent, but it's not clear and convincing evidence that you're innocent, that you don't even get a hearing. Is that part of the habeas

corpus reform that you support, the idea that someone who has evidence that they're probably innocent would be executed?

Mr. GALLEGOS. Well, I don't want anybody that's innocent to be executed. My understanding of that provision is that the hearing would not be at the Federal level, but would be directed back to the State, and it would be the State's responsibility. If it's a State execution, than it would be the responsibility of that court to look at all the evidentiary information coming before it to determine——

Mr. SCOTT. And the Federal court, with someone who has evidence that they're probably innocent, would not intervene in an execution if the State courts didn't do anything? Most of the habeas corpus relief has been in Federal courts. The State courts have been not particularly helpful to people that are innocent about to get executed. It's generally the Federal courts. But if the person has evidence that they're probably innocent, is that the part of the habeas corpus reform that you support, that they would be executed and not have the opportunity for a hearing?

Mr. GALLEGOS. No, our support is to remand the issue back to the States, and it is my understanding, again, that what we support that it would be the primary responsibility of the State, and it would be not automatic hearings by the Federal courts except in those specific cases where there is compelling evidence. My understanding is that the door was not closed on the Federal courts completely, but the primary responsibility lies with the State.

Mr. SCOTT. And if you have clear and convincing evidence that you're innocent, the Federal court can intervene, but if all you have is evidence that you're probably innocent, that you'll just get executed? That's what's in the bill. So that's not the part of it that you supported?

Mr. GALLEGOS. Well, obviously, we don't support anyone innocent being executed. That is not our intent.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. BARR [presiding]. OK, I thank the gentleman from Virginia.

I'd like to thank all members of the panel for being here today. As a former prosecutor, I'm somewhat familiar with all of the organizations and have worked with many of the fine men and women who are members of the organizations represented here today.

I was somewhat surprised, Mr. Gallegos, particularly in reading through some of your written comments here, it really astounds me. I was not aware that it is the charter of the FOP to be the watchdog for the constitutional rights of Federal law enforcement officers. Is that part of FOP's charter?

Mr. GALLEGOS. Yes, sir.

Mr. BARR. Is it?

Mr. GALLEGOS. Any law enforcement officer, full-time, salaried law enforcement officer, we do not discriminate against Federal officers or against any law enforcement officer; State, local, and Federal are included in the charter of the FOP.

Mr. BARR. OK. Are Federal law enforcement officers members of the FOP?

Mr. GALLEGOS. Yes, we have approximately 25,000 members of the FOP that are Federal law enforcement officers.

Mr. BARR. OK. Then perhaps, with that background and that expertise, you could explain to me what constitutional rights of those

officers are being abrogated by the formation in the antiterrorism bill of a Commission that is to exist for 2 years only. You characterized it as a review Commission. It's not a review Commission in any sense of review Commission that I'm aware of, in terms of a continuing Commission comprised of nonlaw enforcement officers to respond directly to charges of police misconduct or to look at specific cases; that that is not the jurisdiction of this Commission.

But what is there in the language of the antiterrorism bill in section 806 that sets forward the Commission on the Advancement of Federal Law Enforcement which are really several general statements, some of which I would have thought the FOP would be supportive of; for example, those regarding to see how better to coordinate law enforcement activities between different levels of government and between different agencies, to look at training standards. And, I mean, there are, you know, 10 specific items that are listed here, and I have them, if you'd like to look at them. But what is there in this that is violative of anybody's constitutional rights in this 2-year commission which is going to be set up with leaders from both parties and the Supreme Court are going to appoint members to?

Mr. GALLEGOS. Well, I——

Mr. BARR. And I say that because I was really struck by the vehemence of your objection to it and the fact that, among all of the issues that I know are important to police officers that are members of FOP, you chose to emphasize that so strongly in your remarks.

Mr. GALLEGOS. Well, first of all, because I feel that the Slaughter Commission can best address those exact issues. It is a law now and has never been implemented.

Secondly, the ability to bring Federal agents before this panel, and there is no ability in this law to bring in people who have the best interest of the Federal agents onto the Commission. There is no provision for the Department of Justice or any other law enforcement agency or organization, to have any ability to be part of this overview, if that's what it's supposed to be. There are a lot of questionable areas in this Commission and the fact that they can force people to come before them which is my understanding, it would—it could potentially violate the constitutional rights of officers made to testify about either their behavior or whatever before a committee versus on internal investigation or the courts. We feel that the courts or the Slaughter Commission could best address these concerns.

Mr. BARR. Well, I really think that your interpretation is stretched, to say the least. I mean—and, again, I'd be glad to have you take a look at the language. There's nothing—and I'd asked to have a staff member bring it over because your comments were so at odds with my recollection of it. There's nothing in here that prevents anybody from having—from presenting whatever information or evidence at any of the hearings. And, again, there are only five members of the Commission. Two will be appointed by Democrats; two will be appointed by Republicans; one will be appointed by the Chief Justice of the Supreme Court.

And, again, the list of things that they're going to look into—and this obtained bipartisan support—really are the sort of things that

I would have thought law enforcement would be supportive of. And, again, it's primarily Federal. Again, I just don't see that that's violative—that setting up this Commission is violative of anybody's constitutional rights. I mean, certainly your objection, if there ever is a person who is brought before any panel without being given the constitutional protections that are always afforded to witnesses, would be a problem for all of us on this panel certainly, but simply the establishment of a Commission, I don't recall any time that that in and of itself has been viewed as something unconstitutional.

But, again, obviously, you have a different view of it, but I would commend to you to read it carefully before reiterating such vitriolic objection to it because I think it really doesn't do those sorts of things, and it was not intended and it is not intended to do those sorts of things.

Thank you.

I recognize the gentleman from North Carolina, Mr. Watt, for 5 minutes.

Mr. WATT. Mr. Chairman, I didn't have any particular questions. I did think it was necessary, however, to point out that many of the functions of this Commission that Mr. Gallegos has raised some question about are duplicative of the things that could be done by the Slaughter Commission, and that the President has, in fact, appointed his representatives to the Slaughter Commission, and it's the Congress that has failed to make the appointments to that Commission to get it operational. And in this time of waste and duplication and trying to eliminate those things, it did seem to many of us that this new Commission was both waste and duplication, and that the administration ought to have some power of appointment to it.

So I applaud Mr. Gallegos for raising the concerns about it. I may agree with Mr. Barr that it doesn't necessarily rise to constitutional implications, but it certainly rises to questions about why we need two Commissions and why the composition is to be controlled the way it is.

So I'll leave that alone and yield back the balance of my time.

Mr. BARR. The gentleman from New York is recognized for 5 minutes.

Mr. SCHUMER. Thank you.

And I'm sympathetic to Mr. Gallegos' comments and also Mr. Watt's, surprise as that must come to you, Mr. Barr.

I find it amazing we're having a Commission dealing with these kind of law enforcement issues, and no one from the executive branch is allowed on the Commission. That lends you to think—I mean, I've never seen such a goofy formulation of who is on. The Chief Justice of the Supreme Court appoints somebody; the legislative leaders appoint, I think, four people, and no one from the executive branch.

So many of us, given where it came from, thought that this was to be—since the Waco hearings, at least in the judgment of this Member, vindicated law enforcement at the Federal level; ATF and FBI didn't make Mr. Corish look very good—that this was supposed to be an attempt to redo it. Waco II is what it was dubbed. The original language I think was more indicative of the intent of

its author, and, of course, then when some of us pounced on it, the language is a lot of cleaner. I would agree with that.

But Mr. Watt's point stands, which is that we already had a commission—by the way, a commission law enforcement supported, the Slaughter Commission, and now we have another one that law enforcement isn't very happy with. And I, for one, who have made it part of my little campaign, crusade—call it what you will—to have at least our party be more aligned with law enforcement, think this is just other example of the contrast between the two. But that's a partisan note that I should not elaborate on.

I just have a question. I think the testimony—I had a chance to review the testimonies of the witnesses—has been excellent, and I apologize I couldn't be here. I had a meeting with some people in my office.

But I had a number of questions. Let's talk about juvenile crime. That's an issue of great currency. And I know that some of the witnesses have said that the Federal Government ought not be involved in juvenile crime. Certainly, I wouldn't think that the Federal Government ought to mix in when there's a local gang hanging out on a Quinton Road in my district. I don't think the FBI is either necessary or appropriate to handle that.

You do, however, have certain instances—and, actually, Senator Dole has made this an issue in the last crime bill when he talked about gangs, because there was a problem in Wichita where you have some major interstate gang problems; drugs, guns are involved, involving both adults and juveniles. It would seem to me in that type of instance there ought to be a blending of Federal and local law enforcement—Federal to deal with some of the interstate issues; local to deal with the indigenous nature of the people who are there.

What's the judgment here? Mr. Gallegos.

Mr. GALLEGOS. I agree that there does have to be a blending of efforts. I view these different initiatives in a different light, in that I see them as tools for law enforcement, not necessarily the ends. In other words, if you have like—the carjacking, which was discussed in the earlier panel. We just had an incident in Albuquerque where a young lady was killed, and they went after them federally. Well, it was a high-profile area. The State and the Federal prosecutors got together and they prosecuted the best case they possibly could and they got a conviction. This case ended by sentencing under the Federal guidelines, and this one guy is going to prison for the rest of his life. He's 19 years old, and that's where he deserves to be.

Mr. SCHUMER. And do you represent some of the local police officers in New Mexico as well as any—you represent the local——

Mr. GALLEGOS. Yes, yes.

Mr. SCHUMER. Did they have any resentment——

Mr. GALLEGOS. No.

Mr. SCHUMER [continuing]. That it was a Federal—I mean, I think——

Mr. GALLEGOS. It's kind of like the attorney general from Delaware said, whoever gives you the best deal for the dollar got it. It's like the Brady bill, and all these other pieces of legislation. To me, they're not intrusions; they're tools with which to work.

Mr. SCHUMER. Correct.

Mr. GALLEGOS. And they're not going to be 100 percent in any given day.

Mr. SCHUMER. Right.

Mr. GALLEGOS. And I think that that's our best approach, is use them when you can to be most effective. It's not going to work in every case, and I think that I would be supportive of continued support by the Federal agencies——

Mr. SCHUMER. Mr. Gallegos, that is my view. In other words, any Federal law that would allow the Federal Government to come in and supplant local law enforcement wouldn't work, but if it's a tool that can augment, given the great problem we have of crime, given that none of our citizenry is happy with the level of crime in the country, let's get everybody pitching in together. Now it is the job of those who are the head of both the Federal and the local law enforcement to make sure there's a blend in the kind of case that the gentleman from South Carolina mentioned, you know, where the Federal prosecutor comes in and cherry-picks a case and actually goes after it first on a lesser crime is exactly what should not happen.

But I will tell you, there are lots of instances in my State with some great prosecutors, local prosecutors, who want the Feds to do it because they have a better ability to convict in certain cases. And our mutual mission here is to make the streets safer and get the criminals off the street without trampling on anybody's rights.

Anyone else have a comment on that?

Mr. GALLEGOS. No, I think your point's well taken.

Mr. SCHUMER. Yes, OK. Mr. Hughes. Mr. Meeks. I always forget, Mr. Meeks, that you and I share a first name.

Mr. MEEKS. I disagree with you.

Mr. SCHUMER. I know you do.

Mr. MEEKS. I'll disagree with you.

Mr. SCHUMER. Go ahead.

Mr. MEEKS. The local law enforcement are the people that are tasked locally to do it.

Mr. SCHUMER. Correct. I agree with that.

Mr. MEEKS. Then if you want a national police force, say you want a national police force.

Mr. SCHUMER. No, I don't want that.

Mr. MEEKS. All right, then you sit back and say the local responsibility; then you bring in your layers of government on top of that where the State supports the local, and the Federal supports the State and the local.

Mr. SCHUMER. Right.

Mr. MEEKS. But when you start taking the thing and you put it together and you say—because the reality of it doesn't work that way. The reality of it, all of a sudden, is, "Move over, Eddie, we're here to take over this case."

Mr. SCHUMER. Right.

Mr. MEEKS. And that happens. I've seen it happen.

Mr. SCHUMER. Right.

Mr. MEEKS. I've been involved in that. And that's what happens in the field. You can sit inside the beltway and say that's what

BOSTON PUBLIC LIBRARY
3 9999 05984 011 4

you'd like to see, Congressman, but out in the real world that's not that way.

Mr. SCHUMER. But aren't there the other instances, I mean, the sheriff in Montana begging the Federal Government to come in, saying, "We need some help here."?

Mr. MEEKS. The thing about it is that here you had people that were cashing checks in the millions of dollars.

Mr. SCHUMER. Right.

Mr. MEEKS. They were disrupting and saying that they don't believe in the Constitution of the United States.

Mr. SCHUMER. Correct.

Mr. MEEKS. They were anarchists.

Mr. SCHUMER. Right.

Mr. MEEKS. And you're sitting back saying, OK, the sheriff would have done it. I'll guarantee he would have done it. He was getting ready to go do it. And you would not have liked the results when he got done with it.

Mr. SCHUMER. No, I might.

Mr. MEEKS. OK.

Mr. SCHUMER. Mr. Barr might not have.

Mr. MEEKS. Well, you know, the thing about it is that when you get that—we call in the State police. We have a big homicide and we can't afford forensics. I'm a sheriff——

Mr. SCHUMER. You're talking in Oklahoma——

Mr. MEEKS. You can't do that.

Mr. SCHUMER. Right.

Mr. MEEKS. These guys have got everything that we need.

Mr. SCHUMER. Right.

Mr. MEEKS. They've got hair; they've got blood; they've got everything. We can't afford that. So we call them in to support us.

Mr. SCHUMER. Right.

Mr. MEEKS. But when a guy walks in and sits over and says, "OK, Sheriff, move aside; we're going to take over," then we're going to draw a line and say that's not right.

Mr. SCHUMER. Bud, isn't there a way—or Charles, as I forgot. When you were introduced, I forgot you were a Charles. I'm a Charles, too. That's how I know.

But isn't there a way to deal with that problem? Agreed, it's a problem, and my friend from North Carolina, Howard Coble, brought up the sort of stereotype: the FBI guy walks in and says, "Scram. I know what's going on; you don't." And usually they don't know, and the local folks know better because they're indigenous to the area.

But isn't there a way to deal with those kind of abuses and still get the kind of cooperation, authority, resources, that the Federal Government has and put them working at harnessing them together with local law enforcement?

Mr. MEEKS. If you get people working on the same plain and working together, yes, you can do that. But you've got to understand one thing on the local level: that if there is ever a civil rights violation and it goes to the Justice Department, guess who comes and investigates it? OK?

Mr. SCHUMER. Right.

Mr. MEEKS. Here walks in the FBI, and they walk in and do the civil rights investigations.

Mr. SCHUMER. Right.

Mr. MEEKS. Now you're going to sit back and say, "OK, here we are. We're done." Now we've got the other agents coming in and saying, "Hey, we're here to help you." And you say, "Well, wait a minute." You know, you can't have it both ways.

Mr. SCHUMER. Right.

Mr. MEEKS. You've got that level that has to be separated because we believe that when you've got that kind of thing, you have to be very careful. And you will get that attitude. I know; I've been there——

Mr. SCHUMER. Yes.

Mr. MEEKS [continuing]. And I've seen that.

Mr. SCHUMER. Well, I've seen it, too. I've seen it, too.

Mr. MEEKS. Yes, sir.

Mr. SCHUMER. Anyway, I think one thing that would come out of this hearing is we do need a little more cooperation, and we certainly need our Federal Justice Department, when there are these kinds of abuses occurring, to have some kind of system that can be put into effect, so somebody can yank the chain back. Usually, it's at the lower level it's happening, some guy who's trying to make a name for himself or herself.

Mr. MEEKS. Can I spend 1 more minute to tell you the problem?

Mr. SCHUMER. Sure.

Mr. MEEKS. Right now, in the State of Washington—OK?—the FBI, which we've been communicating with the people on the Federal level here, went into a case that it was quite obvious was political.

Mr. SCHUMER. Right.

Mr. MEEKS. It was quite obviously political. They had no business being in that case. And now you've got every sheriff in the State of Washington and all local law enforcement over there saying, "What in the world is the FBI doing?" OK, those are the kinds of abuses that you've got to stop. You've got to stop that kind of stuff.

Mr. SCHUMER. Right. We agree on that. We certainly do, Bud.

I want to thank all the witnesses, not only for their testimony, but for the great job they do representing their organizations with whom I've had the pleasure to work closely with over the years.

Mr. BARR. I thank the gentleman from New York.

Before we conclude, Mr. Gallegos, I had mentioned this earlier, but counsel confirmed it for me. It might set your mind a little more at ease to know that the version of the Commission language that did pass in the counterterrorism bill does not contain any provision for subpoena or compulsory attendance of any witnesses that may come before the Commission.

And I would like to echo the ranking member's statement of thanks to all four panel members. We appreciate very much not only your being here today, your sharing with us your expertise and knowledge of these important law enforcement matters that this Congress, this panel, is coming to grips with, but we very much appreciate your work on behalf of law enforcement, the sacrifices you make, and the thousands of sacrifices that are made

every day on the streets of America by the officers that you represent.

Mr. MEEKS. Mr. Chairman, I'd like to clarify one point. Most State troopers wind up running for sheriff. He's got it wrong. He's always had it wrong, Mr. Chairman. [Laughter.]

Mr. BARR. Thank you.

This hearing is——

Mr. GALLEGOS. I'd like to review the statute, if possible.

Mr. BARR. Certainly.

Mr. GALLEGOS. OK, thank you.

Mr. BARR. Yes, you can take the copy right here.

The subcommittee is adjourned.

[Whereupon, at 1:05 p.m., the subcommittee adjourned.]

○

ISBN 0-16-054002-X

90000

9 780160 540028